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Parliamentary History.

VOL. X.

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COBBETT'S

Parliamentary History

OF

ENGLAND.

FROM THE NORMAN CONQUEST, IN 1066,

TO

THE YEAR 1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"COBBETT'S PARLIAMENTARY DEBATES."

VOL. X.

A. D. 1737—1739.

LONDON:

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET:

FOR LONGMAN, HURST, REES, ORME, & BROWNE; J. RICHARDSON; BLACK, PARRY, & KINGSBURY; J. HATCHARD; J. RIDGWAY; J. BOOKER; J. RODWELL; CRADOCK & JOY; E. JEFFERY; R. H. EVANS; J. BUDD; J. BOOTH; AND T. C. HANSARD.

1812.

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PREFACE.

THE present Volume comprises the period from the 4th of March 1737, to the close of the Fifth Session of the Eighth Parliament of Great Britain, on the 14th of June 1739. The Materials from which it has been compiled are the following: 1. The Journals of the House of Lords. 2. The Journals of the House of Commons. 3. Timberland's History and Proceedings of the House of Lords. 4. Chandler's History and Proceedings of the House of Commons. 5. The Gentleman's Magazine. 6. The London Magazine. 7. Tindal's Continuation of the History of England. 8. Mr. Coxe's Memoirs of the Life and Administration of Sir Robert Walpole. And, 9. The invaluable Manuscript Reports of the Debates in the House of Lords, from 1735 to 1743, in the hand writing of Dr. Secker, then Bishop of Oxford, and afterwards Archbishop of Canterbury.

In the Preface to the last Volume, it was observed, that from the year 1735, when the Debates were no longer published in the Political State, the Speeches were given in the Gentleman's Magazine by Guthrie the historian, and in the London Magazine by Gordon the translator of Tacitus; both of whom attended in the gallery of the House, and received information from

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Members of Parliament. In justice to this last mentioned publication,—a publication which by no means holds that rank amongst the Periodical Collections of the times to which it is entitled—the Editor feels it his duty to point out one or two gross errors into which Sir John Hawkins, in his Life of Dr. Johnson, has led his readers. Speaking of the eagerness of the Public to know what was going forward in both Houses of Parliament, Sir John informs us, that Cave, the proprietor of the Gentleman's Magazine, "had an interest with some of the Members of both Houses, arising from an employment he held in the Post-Office. Of this advantage, he was too good a judge of his own interest not to avail himself. He therefore determined to gratify his readers with as much of this kind of intelligence as he could procure, and it was safe to communicate: his resolution was to frequent the two Houses whenever an important debate was likely to come on, and from such expressions and particulars in the course thereof, as could be collected and retained in memory, to give the arguments on either side. This resolution he put into practice in July 1736. The Proprietors of the London Magazine also gave the Debates, but from documents less authentic than Cave."

Now, it so happens, that Parliament was not sitting in July 1736; and, by referring to the Volumes themselves, it will be seen, that the Debates of the Session which opened on the 10th of February 1737, as they stand in the Gentleman's Magazine of that year, are copied verbatim, down to the very errors of the press, from the London Magazine; from that

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very Magazine, the proprietors of which, as Sir John would have us believe, "gave the Debates from documents less authentic than those of Cave!" By turning over the pages of the present Volume, it will be seen that most of the great Debates are taken from that publication; and its merits will more strikingly appear in the future progress of this Work.

On the 13th of April 1738, the House of Commons, after a Debate which will be found at p. 800, came to the following Resolution: "That it is an high indignity to, and a notorious breach of the Privilege of, this House, for any News-Writer in Letters or other Papers, (as Minutes, or under any other denomination) or for any printer or publisher of any printed Newspaper of any denomination, to presume to insert in the said Letters or Papers, or to give therein any Account of the Debates, or other Proceedings of this House, or any Committee thereof, as well during the recess, as the sitting of Parliament, and that this House will proceed with the utmost severity against such offenders."

It is remarkable that this Resolution passed without a single dissenting voice, and with little public animadversion. It is no less remarkable, that none of our historical writers, with the exception of Mr. Coxe *, have taken the least notice of this Debate. The Resolution, however, was not followed by any beneficial effects; on the contrary, it tended only still further to ex-

* See Coxe's Memoirs of Sir Robert Walpole, Vol. 1, p. 573. See also Hawkins's Life of Dr. Johnson, p. 97, and Boswell's Life of Dr. Johnson, vol. 1, p. 67, 4to edition.

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cite public curiosity, while it rendered truth more difficult of access. It compelled the compilers of periodical publications to adopt a covert method of giving the Debates, which made it more easy to falsify them. The Gentleman's Magazine published the "Debates in the Senate of Lilliput," and the London Magazine gave a "Journal of the Proceedings and Debates in the Political Club," with Roman appellations. Each Miscellany afterwards explained these fictitious titles in advertisements affixed to the respective Volumes.

The Subscribers are respectfully informed, that a Volume will henceforward be published with the greatest regularity, every three months, until the Work is completed; and it may afford them some satisfaction to learn, that a GENERAL INDEX, upon a very extensive, and as the Editor flatters himself, a highly useful Plan, has been already commenced, and will be so proceeded upon, as to be ready for delivery with the last Volume.

LONDON,
5, *Panton-Square*,
Feb. 14, 1812.

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Bishops.

1736.	Bishop of St. Asaph	Isaac Maddox.
1737.	- - - - - Bangor.....	Thomas Herring.
1727.	- - - - - Bath and Wells	John Wynne.
1737.	- - - - - Bristol	Thomas Gooch.
1738.	- - - - - ———	Joseph Butler.
1731.	- - - - - Chichester	Francis Hare.
1730.	- - - - - Coventry and Litchfield	Richard Smalbrooke.
1731.	- - - - - St. David's	Nicholas Clagett.
1738.	- - - - - Ely	Robert Butts.
1724.	- - - - - Exeter.....	Stephen Weston.
1734.	- - - - - Gloucester	Martin Benson.
1723.	- - - - - Hereford	Henry Egerton.
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1717.	- - - - - Worcester	John Hough.
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[*Bishops continued.*]

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1730. - - - - - Durham ..... Edward Chandler.

LORD HIGH CHANCELLOR.

1737. ..... Philip Lord Hardwicke, February 21, 1737, (created Viscount Royston and Earl of Hardwicke, 1754.)

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1730. May 8. William, Lord Harrington, (afterwards Earl of Harrington,) vice Lord Townshend.

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1737. June. Sir Robert Walpole, K. G. Chancellor of the Exchequer.
George Doddington, esq. (afterwards lord Melcombe.)
William, Lord Sundon.
Thomas Winnington, esq.
Giles Earle, esq.

MASTER OF THE ROLLS.

1738. Sept. 29. Hon. John Verney.

ATTORNEY GENERAL.

1737. Jan. 26. Sir Dudley Ryder, knt.

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COBBETT'S

Parliamentary History.

10 GEORGE THE SECOND.

A. D. 1737.

Debate in the Commons concerning Chelsea Hospital.] March 4. The Committee of Supply came to a Resolution, which was agreed to by the House, "That 28,707*l.* 5*s.* 10*d.* be granted to his Majesty upon account, for Out-pensioners of Chelsea Hospital for the year 1737."

Several gentlemen upon this occasion took notice of the great charge this Hospital was likely to bring upon the public. They said they would not oppose the motion then made; but they could not neglect that opportunity of taking notice, that notwithstanding its being a time of peace, the charge seemed to be every year increasing; for that last year the sum provided by parliament for that article was but 24,518*l.* 10*s.* and the preceding year it was but 18,850*l.* 9*s.* 2*d.* so that the sum then demanded was very near 10,000*l.* more than was found necessary for the same service but two years before. They would not, they said, pretend to suggest what were the particular reasons for that great increase; but there was one general reason which would always hold, while we kept up such a large number of regular forces, and observed the same rules with respect to admitting persons into that Hospital. In time of war there had been two rules established for entitling soldiers to the benefit of that Hospital; one of which was, a soldier's being wounded or maimed in the service, and discharged by his colonel, as unfit for further service; and the other was, a soldier's having been twenty years in the service, and reduced, or discharged by his colonel, as an old and decrepid soldier. While the war continued, no man could claim a title to the Hospital by either of these rules, unless he was by his age or his wounds, become actually unfit for service; because as recruits were then hard to be got, no colonel would discharge a soldier, as long as he was any way fit for service; and there were but very few who could ever claim the benefit of the last rule; because most of them were either killed or wounded before they could be discharged as a soldier grown decrepid with age. Whereas, now, in time of peace, we had not, it was true, many soldiers who could claim any title from the first rule; but the numbers of those who might claim a title from the second would be increasing every day; for as recruits were now easily procured, the officers were very apt to discharge an old soldier, as often as they could find a clever, well-looked young fellow ready to list in his stead, though the old soldier might then be as fit for real service, but not perhaps so proper for a review, as the man newly listed; and as none of our soldiers were in time of peace in any great danger of being killed, almost every soldier in our army would at last come to have a title, by his having been twenty years in the service, to claim the benefit of being admitted into Chelsea hospital; and that at an age perhaps when he might not only be fit for service, but fit for gaining his livelihood by any industrious employment; for if a young fellow listed when but eighteen years of age, at his age of eight and thirty, if he could obtain a discharge from his officer, he would have a title to claim being admitted into Chelsea Hospital; and by means of a long beard, a ragged coat, and good interest at the board, he might even at that age be ad-

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mitted to a share of that charity, which was designed only for the disabled and decrepid. From hence they could not but suppose, that a peaceable army would always furnish Chelsea with more pensioners than a fighting army of the same number could be supposed to do; and the pensioners drawn from the former would live longer to enjoy their pension, and to be a burden upon their country, than the pensioners drawn from the latter.

These things, they said, they took notice of, not with any design to oppose the motion, but only to shew the many disadvantages that attended the keeping up of a numerous standing-army in time of peace; and at the same time they hoped it would contribute towards making those concerned as careful as possible, not to admit any to the benefit of that Hospital, but such as were truly objects of charity, and deserved to be supported at the expence of their country.

To this, it was answered, That though the nation, by means of the wise measures pursued by his Majesty and his royal predecessor, had been so fortunate as to remain for many years in a state of peace and tranquillity, though that happy state should continue for many years to come, yet it had always been, and they believed, would always be deemed necessary to keep up some regular troops; and while they kept up any such troops, it would be necessary to grant a subsistence or relief to those soldiers who should grow old and decrepid in the service; for a poor man had no other way to provide for the infirmities of old age, but by the industry and frugality of his youth; and if a poor man should in his youth forsake every sort of business by which he might provide for the infirmities of old age, in order to make himself fit for serving his country as a soldier, and in order to be ready upon all emergencies to venture his life in the cause of his country, such a man, though he partook of the happiness of his country, and passed through life without danger, yet he deserved as much to be provided for by his country in his old age, as if he had been during his whole life involved with his country in bloodshed and danger; and in the former case he would more probably stand in need of it than in the latter; because in time of peace, a soldier had nothing but his bare pay, out of which it could not be supposed he could save any thing as a provision for old age; whereas in times of war, soldiers were often allowed to plunder, and sometimes enriched themselves by the spoils of their enemies.

For this reason, if the pensioners in Chelsea College should become a little more numerous in time of peace than in time of war, it was a disadvantage which could not be prevented, but it was a disadvantage that was sufficiently compensated by the many advantages the nation reaped from a state of peace and tranquillity; and the maintaining a sufficient number of regular troops had contributed, and would always contribute towards securing and prolonging the enjoyment of those advantages. However, they said, they could not admit that any officer would be very apt to discharge a soldier, as long as he was every way fit, and properly qualified for the service; because the breeding of a young fellow up to discipline, and making him thorough master of his exercises, was always a great trouble to the officer; and if the officer should discharge such a man, the board were not obliged to admit him to the benefit of Chelsea hospital, even though he had been twenty years in the service, unless he was some way disabled, or grown very old and decrepid; at least if any such man was admitted, he was immediately sent to the regiment, or to some of the companies of invalids, and by that means was made to serve for that subsistence which he received from his country, as long as any service could be expected from him; so that they believed, there were few or no soldiers upon the establishment of Chelsea Hospital, but such as were real objects of charity; and they were very sure the commissioners of that board had been of late as careful as possible not to admit any man upon that establishment who was not every way entitled to the benefit, as would fully appear if any enquiry should be made into that affair; and then the particular reasons for the late increase of the charge of that hospital would not only be made to appear, but would, they were convinced, be approved of by every gentleman in that House.

The question was then put upon the motion, and agreed to without a division.

Debate in the Commons on the Duty upon Sweets.] March 7. The proper officer was ordered to lay before the House an Account of the nett income into the exchequer of the duties on Sweets, for seven years ended at Michaelmas then last; which was accordingly presented the next day; and on the 18th the House having

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resolved itself into a committee of Ways and Means, and the said Account having been thereto referred, sir Robert Walpole moved for the first resolution relating to the Duty on Sweets, which, after a long debate, was agreed to: then the second Resolution; and the House having agreed to both these Resolutions, a Bill was ordered to be brought in, which, after long debates, was passed into a law. In these Debates, the Arguments for the resolutions, and afterwards for the Bill, were in substance as follow:

Sir; By the Resolutions we have already come to, in the committee of supply, it will upon calculation appear, we have granted his Majesty, for the service of the ensuing year, a supply of about 2,025,000*l.* now as the land-tax and the malt-tax which we have granted, do not both together amount to 1,700,000*l.* there will be a deficiency of near 400,000*l.* which must be provided for, either by increasing some of the taxes we have already, or by granting some new tax, or by taking so much from the Sinking-Fund, or lastly, by the method I have thought of, and which I shall presently explain to you. As for increasing any of the taxes we have already, or imposing a new one, I do not think we can make good the deficiency by either of these ways; because I do not think the people can well bear any additional or new tax, and the attempting of any such thing, may alienate the affections of great numbers of the people from our present happy establishment, and may contribute towards increasing those mobs and tumults, which have of late been so frequent all over the kingdom: and as for the Sinking Fund, the growing produce thereof is already appropriated towards paying a million to the South-Sea old annuitants; so that we cannot make good this deficiency out of the growing produce of that fund, and I do not think it would be proper to mortgage any part of the Sinking Fund for this purpose.

There is therefore, in my opinion, no possible way left for making good this deficiency but that I have thought of, which is, not by increasing any present tax, or imposing any new one, but by reducing an old tax to one third of what it is at present. This, Sir, may at first view seem to be a paradox; but when I have explained myself, the mystery will vanish, and every gentleman will, I hope, approve of the method I am to propose. Every one knows that, ever since the year 1699, we have had a duty of no less than 36*s.* a barrel, upon all Sweets made for sale within this kingdom, which is so high a duty that it has in some measure entirely prevented the making of any such liquors for sale; at least if any such have been made, the makers have always found means to evade the law, and defraud the public of the duty, so that the duty, as I have been told, has never produced any thing considerable, and by the accounts upon our table it appears the present produce amounts to little or nothing. Now, Sir, I am convinced that, if there were a moderate duty laid upon such liquors, and the nature of the liquors subjected to the duty fully explained in the act for imposing it; I say, that in such a case I am convinced, a very considerable revenue would arise yearly from the consumption of such liquors; because as the prime cost is but small, if the duty were tolerable, I believe there would hardly be an ale-house in the kingdom without great variety of such liquors; and if they were to be had at every ale-house, I am persuaded great quantities of them would be consumed, especially now that our people are debarred the use of spirituous liquors in drams or otherwise.

It is not to be questioned, Sir, we already know it by experience, that our putting an entire stop to the retail of spirituous liquors, will be a great hardship upon all those who formerly dealt in that trade; and many of those who used to be their customers and consumers will likewise think it a hardship to be debarred a moderate use of such liquors, in that method they have from their youth been accustomed to: although every sensible man must be convinced, that the putting of this hardship upon him was absolutely necessary for the public good, and for preserving the health and morals of the people, yet we find there are great numbers who are apt to murmur at this regulation; and to prevent these murmurs, I can think of no expedient more proper than that of encouraging the retail and consumption of those liquors called sweets, which may be made to answer all the good ends of spirituous liquors, without being attended with any of the fatal consequences proceeding from an immoderate use of such liquors. This of itself would be a good reason for diminishing the duty payable upon those liquors called sweets, even though there were no benefit to arise therefrom to the public revenue, nor any occasion for increasing that revenue. But as there is an absolute necessity for in-

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creasing the public revenue, in order to answer those supplies you have already granted; and as there is a great probability that by diminishing the duty on sweets to one third of what it is at present, you will increase the public revenue as much as is necessary for answering the present occasion, I think no gentleman can dispute the reasonableness of making such a diminution.

But, Sir, to add to the weight of those reasons I have already given, there is another reason of great weight with me for endeavouring to encourage the consumption of sweets, and consequently for diminishing the duty now payable upon them, and that is, the great quantity of sugar made use of in the consumption of such liquors. I believe no gentleman doubts but that the consumption of sugar will be diminished by the strict prohibition of the retail of spirituous liquors in punch or otherwise; and as our sugar trade will suffer by diminishing this consumption, I should be glad this loss were made good to the sugar trade, by incouraging and increasing the consumption of those liquors called sweets, in the composition of which, there is, I believe, more sugar made use of than was ever used in the composition of the like quantity of that liquor called punch. To this I shall add, that, as most of the materials made use of in the composition of all sorts of sweets are the growth and manufacture of our own dominions, and as a great variety of such liquors may very much diminish the consumption of foreign wines, therefore the increasing the consumption of the former will not only be a great encouragement and advantage to the industrious part of our own subjects, but will likewise be an advantage and addition to our general balance of trade, by diminishing the value of our imports.

From all which, Sir, I hope it will appear not only proper but necessary, that we should abolish the present duty on Sweets, and instead thereof, lay on such a less duty as to this House shall seem reasonable. With respect to the new duty to be laid on, I shall not pretend to prescribe to the House, I shall only beg leave to give my reasons why I think 12*s.* a barrel will be a proper duty. I believe every gentleman will agree, that as long as we have a duty upon malt, and an excise upon all malt liquors, there ought to be some duty laid upon all other liquors consumed within the kingdom, whether they proceed from foreign or domestic growth or manufacture; because the production of barley and malt is a production we ought to encourage as much as any home production whatever: therefore there ought certainly to be some duty laid upon all sweets consumed within the kingdom; and in my opinion that duty ought to be higher than the duties and excises payable upon the like quantity of any sort of malt liquors; but not so high as may entirely prevent the retail of any of those liquors. If we consider and compute the malt duty, and the several excises payable upon beer and ale, we may reckon that every barrel of strong beer or ale pays between 5 and 6*s.* a barrel; and for the encouragement of our farmers, by increasing the consumption of their barley, I think we ought to make the duty on sweets at least double the duty upon malt liquors; for which reason I reckon 12*s.* per barrel is the least duty we can propose to lay upon all sweets, which shall hereafter be consumed within this kingdom.

This duty, Sir, as it is but a very little above 4*d.* a gallon, cannot, I think, any way tend to discourage or diminish the consumption of such liquors, nor can it enhance the price by retail, so as to make our people prefer the use of any foreign liquor, to that of our home made sweets, when they are skilfully prepared, and proper care taken to make them palatable as well as healthful; for I am of opinion that sweets of all kinds may be made as palatable and as healthful as any sort of punch; and considering that the consumers must pay for every gallon even of rum-punch at least 4*s.* 4*d.* duty, I cannot but think, that upon diminishing the duty on sweets as I have proposed, several sorts of them may be made up and sold at a much cheaper rate than any sort of punch can be; from whence I must conclude, that in a little time great quantities will begin to be consumed; and that from thenceforward, this particular branch of the public revenue will be very much increased, by diminishing the duty upon such liquors; as was formerly the case with respect to pepper, the duty upon which has produced a great deal more yearly since it was reduced, than ever it did before.

It is impossible for me, Sir, to foretell with any certainty, what this duty upon Sweets, when so reduced, will bring in yearly. I have seen several calculations and computations upon the head, all of which were founded upon very probable

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conjectures; but they differed so widely from one another, that no man can determine positively, which of them he ought to give most credit to. By some of these computations it was calculated that the duty upon sweets, when reduced to 12*s.* per barrel, would in all appearance produce near 50,000*l.* a year: by others, the annual produce of this duty was not computed at above 20, or 25,000*l.* which is so great a difference that no determination, hardly any supposition, can be made with respect to the future yearly produce. However, if this duty be reduced to 12*s.* a barrel, and that doubt explained, which has arisen upon former acts of parliament, in relation to liquors made for sale by infusion, fermentation, or otherwise, from British fruit or sugar, or from fruit or sugar mixed with other materials or ingredients, and commonly called or distinguished by the name of made-wines, I shall suppose the duty will then produce 30,000*l.* a year; for the consumpt of those liquors called sweets, has not only been prevented by the extravagant height of the duty laid upon them; but the doubt I have mentioned has always prevented its being collected; because it has always been pretended that such made-wines were not chargeable with the duty of 36*s.* a barrel, and by that pretence, people have generally got free from paying that duty even upon sweets made for sale by infusion, fermentation, or otherwise, from foreign fruit or sugar; it being generally impossible to determine, whether such mixtures are made from foreign or from British fruits or sugar.

Now, Sir, if we suppose that the future produce of this duty will amount to 30,000*l.* a year, as it has never heretofore produced, I believe, 30*l.* a year, the increase upon it will then be a sufficient fund for borrowing as much as will be necessary for making good the supplies you have granted for the service of this ensuing year. I say it will be a sufficient fund, not only for paying the interest yearly, but for paying off the principal in a small number of years; for 400,000*l.* will, I reckon, be the highest sum that will be wanted, and as that sum may be borrowed at 3 per cent. a revenue of near 30,000*l.* a year will pay not only the interest yearly, but will likewise pay off the principal in about 17 years; and if the duty should produce more than 30,000*l.* a year, it will then pay off the principal as well as growing interest much sooner.

Thus, Sir, I have explained to you, what I think by far the easiest and most proper way of raising that sum, which is still deficient for making good those supplies we have already agreed to. These supplies must certainly be made good some way or other; and if any gentleman will rise up and shew us a better method for making them good, I shall very readily give up my project and agree to any other method proposed; since I have nothing in my view but to raise those sums we have thought necessary for the public service, in that method which shall appear to be most beneficial for the nation, and least burdensome to the people. If the House approves of what I have proposed, the proper method for carrying it into execution is, to resolve first to repeal or abolish the old duty; and then to resolve, "That a duty of 12*s.* per barrel shall for the future be granted to his Majesty upon all sweets made for sale;" therefore I shall conclude by making you this motion, that it may be resolved, That the duty of 36*s.* a barrel on sweets, granted, &c.

To this it was answered in substance as follows;

Sir; The honourable gentleman who has pleased to move you this question, set out with three or four general maxims, in which I shall most readily agree with him. The supplies we have already granted ought certainly to be made good by some means or other; and I am so far of opinion that these supplies must be made good, either by adding to some of the taxes we have already, or by imposing some new one, or by incroaching upon the Sinking-Fund, that I am sure there is no fourth way of making them good; therefore the honourable gentleman raised my curiosity not a little, when he told us he had thought of a method for raising as much as would make good the deficiency of the land and malt tax, without adding to any old tax, or imposing any new tax, and without making the least incroachment on the Sinking Fund. This, I confess, was to me a paradox and a mystery, which I became very impatient to hear explained; but how greatly was I disappointed when this notable project came to be laid open? for then it appeared to me, and I hope I shall by and by make it appear to the House, that this project must either be a new tax, or it must be an incroachment upon the Sinking Fund.

I shall likewise, Sir, most readily agree

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with the honourable gentleman in two other maxims he set out with, which were, that the people cannot well bear any additional or new tax, and that we ought never to make an incroachment upon the Sinking-Fund: But, this, Sir, we ought to have thought on before granting the supplies; and if this were considered as seriously as it ought to be, it would make every gentleman extremely cautious of proposing to run the nation into an unnecessary expence, or of asking any supplies for that purpose; for after we have once granted supplies, they must be made good some way or other. We ought to consider that, notwithstanding the many taxes our people are loaded with, yet all those taxes, except the land and the malt tax, are mortgaged for making good the civil list revenue we have granted, or for paying the principal, and the interest, of the debts we have contracted: We have now no way of providing for the current service of the year, but by means of the malt tax and the land tax; and I must say, though I am sorry to say it, if we do not fall into a method of contracting the public expence in time of peace, so as to make those two taxes answer it, this nation must necessarily and speedily be undone. We may go on for a few years contriving expedients, and mortgaging every little fund we have left to mortgage; but this must be attended with inevitable ruin at last; for the richest man in the kingdom, if he spent but 10*l.* a year more than the real income of his estate, would certainly at last be undone.

Many ways might be contrived, Sir, for lessening the public expence yearly. The reduction of the army, or putting them upon a different foot, is one method, which is obvious and known to every man; but there is another method which would be as certain and as extensive, and that is, by annihilating all those sinecure posts, and undeserved or ill-deserved salaries and pensions, which have been growing upon us for many years, and which can never be of any service to the people, unless it be to enable future ministers to oppress them. Many of these I could mention in every branch of public business within this kingdom; but I shall not take upon me the malice and resentment which such a piece of public service would draw upon the author, from all those whose private interest would be struck at. I do not think it proper or prudent for any private man to take upon himself such a burden: It is proper only for a government to undertake; and whenever the government does undertake it, I am sure they will, if they make clean work, save upwards of 500,000*l.* a year to the public, which is a greater sum than is wanted for the service of the ensuing year.

This, Sir, is what might have been done, it is what ought to have been done, because by so doing we might have avoided that fatal dilemma we are now reduced to. The resolutions of the committee of supply have now made it absolutely necessary to load the people with additional or new taxes, or to incroach upon the Sinking-Fund; and whatever the hon. gent. may think of his favourite temporary expedient, to every impartial enquirer it will appear, that it must be ranked under one or other of these methods. The duty upon sweets, whatever was the intention of those Parliaments which established it, has never been raised, at least it has never been raised in so extensive or strict a manner as is now proposed; therefore, with regard to the people, it must be looked on as a new tax. If we were to revive the ancient tax called Danegelt, we may as well pretend it is no new tax, as to say that a tax upon sweets, which was never before levied upon the people, is no new tax. The people never before felt any such tax, therefore when they come to feel it, they will look on it as a new load laid upon their backs, already almost broken, and will murmur as if it were a tax which had never before been thought of. They do not look into acts of Parliament for learning what taxes they are subject to: they consider only what taxes they have been accustomed to pay; and therefore they will always date the commencement of a tax from that time when it first began to be exacted upon them. For this reason our beginning now to exact this tax, will certainly raise new murmurs: I shall not say it will make the murmurings of the people more general; they are already by much too general; and such temporary expedients are not, I am sure, the most proper ways for appeasing them, or for preventing those riots and tumults which are now so justly complained of.

But, Sir, even with respect to the laws by which this duty has been established, the method now proposed for supplying the current service, must be looked on as a method for doing it by a new tax in whole or in part, or it must be looked on as a method for doing it by incroaching upon those funds appropriated to the pay-

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ment of the principal or interest of our debts. If it was never designed by any of the laws now in being, that made-wines should be looked on as Sweets, or subjected to any tax as such, the subjecting them for the future to a tax, must be looked on as imposing a new tax upon such wines; and if by the laws now in being all liquors made for sale by infusion, fermentation, or otherwise, from British fruit or sugar, or from fruit or sugar mixed with other materials or ingredients, were designed to be looked on as Sweets, and as such to be chargeable with the duty of 36*s.* a barrel, as well as all liquors made for sale from foreign fruits or sugar, then the whole duty now proposed to be abolished, stands appropriated to the payment of our debts, and makes a part of the Sinking-Fund, as may appear from the famous act of the 6th of his late Majesty, for enabling the South-Sea Company to encrease their capital, by which this duty, among others, stands expressly appropriated to that Company. Nor does it signify to say that this duty never produced any thing; because if the levying of this duty was prevented by a doubt in the act of Parliament, that doubt ought to have been explained long before now; for he who grants is always supposed to grant every thing necessary for making his grant effectual. Therefore, as the old duty stands appropriated to the South-Sea Company, and makes a part of the Sinking-Fund, we cannot abolish it without making an encroachment upon the Sinking-Fund; and if the South-Sea Company should give up two thirds of their grant, in order to make the remaining third more effectual, or if we should, by way of repeal, take from the Sinking-Fund two thirds of this duty, in hopes the remaining third would produce more than the whole three parts formerly did, or could have done, surely the South-Sea Company, as well as the Sinking-Fund, have an undoubted right to that third part; so that we cannot appropriate the 12*s.* now proposed to be laid upon Sweets to the service of next year, without encroaching both upon the Sinking-Fund, and upon the right of the South-Sea Company.

I hope, Sir, every gentleman that hears me is now convinced the project we have under our consideration must either be called a new tax, or an incroachment on the Sinking-Fund; and as the hon. gentleman who moved you the question, admitted, that we ought neither to impose any new tax, nor make any such incroachment; I hope he will now admit his proposition is such a one as ought not to be agreed to; for though I shall not say that out of his own mouth I have condemned him, yet, I think I may say, that out of his own mouth I have condemned the project he has been pleased to offer. I know, it may be said, that if we, from the future produce of this duty, pay yearly to the Sinking-Fund, a sum equal to what the duty has produced at a medium since the first time of its being granted, we cannot be accused of making any incroachment upon the Sinking-Fund; but is not this a sort of play upon words, hardly becoming the courts in Westminster-Hall, and much less the proceedings of this House, where nothing but equity and strict honour ought to prevail? A duty has been granted, money has been borrowed upon the credit of that duty, it has since been found the duty was so high, that it amounted to a prohibition, and therefore produced little or nothing; the creditors come and desire the duty may be lowered, in order that they may have some sort of security for their money: could we refuse so equitable a request? Could we in honour say, no, you shall have the former produce, which was little or nothing, continued to you; but if, upon its being lowered, it produces more, we must take the whole increased produce, for answering our own necessary occasions? The case before us is still stronger: the old duty upon Sweets would have produced a great deal more than ever it did, if the doubt which arose about the intention of the law had been explained as now designed; and, if what is now designed, was really the intention of the law at first, that doubt ought to have been so explained as soon as it was taken notice of, in order to make effectual to our creditors that grant, which we had made them for securing the payment of the money they lent us in our distress. We may abolish the old duty, we may establish one third part of that duty only, for the future; but that new duty, so to be established, in honour, in justice, in equity, belongs to the creditors who lent their money upon the credit of the old duty; and consequently, we cannot apply it to the current service, without making an incroachment upon the Sinking-Fund.

I have hitherto supposed, Sir, that the parliament which established the duty upon sweets, designed to include those liquors called made-wines; and this I have supposed, only to shew that, even in that

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case, we ought not to agree to the method proposed, because it will be an incroachment upon the sinking-fund; but now, Sir, I shall suppose, and I do insist upon it, that no former parliament ever intended to subject liquors made for sale by infusion, fermentation, or otherwise, from British fruits or sugar, or from fruits or sugar mixed with other materials or ingredients, and commonly called or distinguished by the name of made wines, to the duty by them imposed upon sweets; and the practice ever since those acts of parliament were passed, which is above thirty years ago, has fully justified my opinion; for we must suppose the commissioners of the treasury, the commissioners of excise, and the excise-men, have often taken the opinion of lawyers upon this head; and if they had ever had the opinion of any tolerable lawyer in their favour, we may suppose they would have exacted the tax with the utmost rigour; we cannot suppose, without doing great injustice to those worthy servants of their country, that they would have allowed the public to be defrauded of such a considerable revenue, if in all that time they had ever had the opinion of any noted lawyer in their favour; therefore, I must look upon the proposition now made to us, as a proposition for imposing a new tax upon the subjects of this kingdom; and I shall now endeavour to shew, that it is a tax of the most oppressive nature, and which may be attended with the most fatal consequences, with respect to our constitution and the liberty of the subject.

The nature of Excise-laws, Sir, and the dangerous consequences of extending such laws in a free country, were upon a late famous occasion so fully explained, that I little expected a further extension of such laws would have been attempted for some years to come; but now, I find, I have been egregiously mistaken; for the project now before us, I must look on as a new and a wide extension of those laws. Every one knows, the duty upon sweets is to be raised by the laws of excise, and if you subject all those liquors called made-wines to that duty, there is hardly a farmer, or a country gentleman in England, but will by that means be subjected to the laws of excise, if he resolves to make the best use of his garden or orchard. Our excise laws have already spread themselves over every city, borough, and village, in the kingdom, and by this new regulation they are to spread themselves over every country, and to enter into the most lonesome farm-house in England: for if a farmer has a mind to make a little money of an elder-hedge, or of a goosberry, raspberry, or currant-bush, or of a mulberry-tree, he may have in his garden, in order to enable him to pay his rent to his landlord, his house must be open all hours in the day-time to the gauger, nay, it must be open at all hours in the night-time, if the gauger can but find a profligate fellow of an ale-house-keeper in the hundred, who has got himself named a constable by the trading justices of the county. Can it be supposed, Sir, that this will produce no fresh murmurs? Can it be supposed our farmers will all submit patiently to such a hardship? Or can it be supposed that all our gaugers will behave with common decency, when they get into a lonesome house in the country, at a time, when, perhaps, the family are in the fields a hay-making, and no person left at home but the farmer's wife, or daughter? Then, suppose the farmer is caught in a fraud, how will the landlord look, when he finds himself disappointed of his rent, by an extent brought against his tenant for the penalty?

I am sure, Sir, I need not repeat to the House the many good arguments that have been made use of against excise-laws. It has upon a former occasion been shewn, that they are of the most dangerous consequence to our constitution; and the arguments then made use of are certainly still fresh in every gentleman's memory. I shall only take notice, that as the authority and business of excisemen will be very much increased by this new project, though we have now a greater number of them than we have occasion for, yet their number must be greatly augmented; for not only many of our farmers will from hence forth be subjected to their review, but, I am afraid, every tavern and wine-cellar in the kingdom. We know what a clamour was raised against the last attempt to subject wine-merchants and vintners to excise laws: that was an open attempt, and such a one as they could openly oppose; but the difficulty of such an attack was then felt; and therefore, they are now to be attacked in an indirect and hidden method; for if most of our dealers in wine be brewers of wine, as is commonly reported, every such dealer will, by this method, be subjected to the review of an exciseman, though he dares not say he is afraid of any such thing, and therefore, cannot openly oppose the project now before us. By this means, the influence which excisemen

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already have, or may have, upon all city and borough elections will be very much increased; and as many of our farmers are freeholders, the excisemen will, by means of this project, have an opportunity of gaining an influence likewise in all county elections; both which are diametrically opposite to our constitution, and to the liberty of the subject.

If by lowering the duty on Sweets, and preventing the retail of spirituous liquors in punch or otherwise, those liquors called made-wines should come to be of universal use, we must suppose that almost every farmer in England will turn himself towards the making of such liquors, and, the producing of materials proper for that purpose; the consequence of which will be, that he must go to the next office of excise, and enter his name and place of abode, together with every room and place made use of by him for making or keeping any such liquors. This he must do under a great penalty; and from the time he has done so he can no longer call his house properly his own: from that moment, the gauger may, any hour of the day, and as often as he pleases, require admittance; and, by taking a constable along with him, he may, at any hour of the night, and as often as he has a mind, require admittance: if the poor farmer should at any time refuse to leave his labour in the fields, or if he should refuse to get out of bed after a hard day's labour, in order to let the gauger enter his house, he subjects himself to a great penalty. For these penalties he is not to be sued according to the common law, not to be tried in the usual way, by God and his country, but he is to be tried before the commissioners of excise, or before two justices of peace, who may convict him without any jury, upon the oath of the gauger who makes the complaint; and all this without any appeal but to the quarter sessions, whose judgment is to be final. Then after he is once convicted, in order that he may for ever after remain obedient to the commissioners of excise or to the justices of the peace, they are impowered to levy the whole or what part of the penalty they please, according to the past or the future behaviour of the unfortunate convict.

This, Sir, will be the case of every farmer in England, who attempts to make the most of the gooseberries or currants he has in his garden; and if, to avoid this misfortune, he should resolve to sell his fruits to the makers of such liquors, instead of making them himself, he must sell them for little or nothing. From hence I am apt to believe that notwithstanding the low duty you propose to lay upon made wines, the methods you are to prescribe for raising it, will prevent the consumption; because no man will subject himself to the excise-laws, for the sake of any advantage he may get by the making of such liquors; and if they are not made, I am sure they cannot be consumed; so that one or other of these inconveniences must arise from the project now under our consideration: Either a great number of our people will be subjected to excise-laws, who were never before subject to any such, or the produce of the duty will come far short of your expectation. By the former, our liberties will be exposed to greater danger than they are at present, or ever ought to be; and by the latter, we shall leave a new load upon our posterity, without any competent fund, for ridding them of that load; which is, I think, what no man can agree to, who has any regard for his posterity, or the future happiness of his country.

From what I have said, Sir, I hope it will appear, that the method proposed for making good the deficiency of the supplies for this next ensuing year, is not only a new tax, but one of the most dangerous taxes we can impose upon the people. I shall be far from proposing any addition to the land-tax; I think 2*s.* in the pound is the highest our land-holders ought to be loaded with in time of peace; but I am sure it would be better for every land-holder in England to pay 3*s.* in the pound land-tax, than to lay such a hardship upon his tenants, as to make it necessary for them, either to subject themselves to the laws of excise, or give up making the proper advantage of some part of their farms. An additional shilling to the land-tax is but a short temporary loss: It is a loss of a twentieth part of his rent but for one year only; but by subjecting his tenants to such a hardship for 17 or 20 years, may find himself obliged to lower the rent of every farm that belongs to him, much more than a twentieth part, which will be probably a perpetual loss, or at least a yearly loss that may affect him and his posterity for a great number of years. For this reason, I say, Sir, every land-holder ought to chuse rather to pay an additional shilling land-tax, than subject his tenants to such a hardship as will be the necessary consequence of the project now before us. But there is another reason

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why every man in the kingdom, as well as every land-holder, ought to be against this project, if he has a proper regard for his posterity or for his country; because the method thereby proposed for raising money for the current service, is in general, I think, the most pernicious method this nation, or any nation, can ever chuse for supplying such services. To establish funds, and then mortgage those funds for ready money, is a method of supplying the current service, which I shall now endeavour to shew no nation ought to take, but in cases of the greatest extremity and danger.

In every country, Sir, that which may be called the estate or revenue of the public is the sum that may be raised yearly from the public lands, and from those taxes and impositions which the people will patiently submit to pay; therefore if in any one year the public expence exceeds that sum, by mortgaging a part of this public estate or revenue, the public is in the same circumstances with a private man who runs out his estate, and neither the one nor the other can, for the future, be reckoned to have a greater estate or revenue than what remains free to him after the payment of the interest upon his mortgages yearly. The only difference is, that the revenue of a private man is certain and always the same, whereas the public revenue of a kingdom or state is variable, and may always be greater in time of war than in time of peace; because, during a just and necessary war, the people will patiently submit to greater taxes than they will do in time of peace; but in either case, if the government of a country should make the public expence exceed the public revenue, but for one year only, it is a step towards their ruin, and a great number of such steps must certainly at last bring them to their journey's end, which is the ruin of their country. For this reason the government of every country ought to take special care to proportion the public expence to the public revenue yearly, so as never to allow any public debt to be contracted, but what may be discharged by the produce of the taxes growing due within that year.

Ministers, Sir, and those in the present possession of power, may very probably be for loading the public with debts, instead of loading the people with taxes, because the people are sensible only of the taxes they pay, they are not immediately sensible of the debt the public contracts, nor can they probably become sensible of it during that minister's administration. This may enable him to run the nation into a needless expence, or to squander the public money, without bringing an immediate odium upon himself, or raising any murmurs against his administration; but every such debt weakens the power of the crown, which depends upon the annual revenue of the kingdom, and may render it impossible even for the very next successor to protect his kingdom, either against invasions and insults from without, or tumults and insurrections from within; therefore no man who has a true regard for the crown, or for the next successor to the crown, will, for the ease of any temporary minister, agree to run the nation in debt, in order that the people may not be sensible of the unnecessary charge his ambition, imprudence, avarice, or extravagance, may have brought upon them.

When such taxes are imposed and collected within the year, as are fully sufficient for defraying the expence of that year, the people are sensible of the expence, and will therefore enquire into the necessity of that expence, which will always be a check upon the measures of the administration, in time of war as well as peace: It will not only make them frugal with respect to every shilling of the public money they are obliged to lay out, but it will make them careful not to involve the nation in any unnecessary war or expence; and it will prevent their continuing of any war, longer than the future security of the nation requires. On the other hand, when the public expence, or any part of it, is raised by imposing a small tax upon any of the necessaries, conveniencies, or luxuries of life, and mortgaging that tax for a number of years, the people are not sensible of the expence they are put to, and consequently make no enquiry about it, which often gives an encouragement to those in power to run the people into needless expences, and lavish the public money. But if such measures be continued for any number of years, those small taxes grow so numerous, that they become not only sensible but insupportable: The complaints and the murmurs of the people then begin to grow general and loud; but the misfortune is, that their resentment falls upon those who have then the ill fate to be in power over them, and not upon those who were the original authors of their misery.

Another misfortune is, Sir, that by contracting debts, instead of imposing taxes,

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the nation is at last obliged to pay 3 or 4*s.* sometimes more, for every shilling that was ever applied to the public service; because the interest and charges of management, which the people are obliged to pay yearly till the principal be discharged, often amounts to double or treble the sum applied to the service of the public. If we were to compute what this nation has paid for interest, and charges of management, upon all the debts we have contracted, it would amount to an incredible sum: I am convinced it would appear to be more than three times the amount of the whole debt we owe at present. Let us but consider the project now before us: let us suppose 400,000*l.* borrowed at an interest of 3 per cent. and that the tax will amount to but 35,000*l.* a year, which is the least gross produce we can suppose upon the supposition that it will bring a nett sum of 30,000*l.* yearly into the Exchequer; in that case, the people must pay 35,000*l.* a year for 17 years, which at 3 per cent. compound interest amounts to near 750,000*l.* and which must be paid by the people of England in lieu of the 400,000*l.* now to be borrowed for the service of this year. When so low an interest, in so short a time, makes such a difference, we may easily guess what an immense sum the people of this kingdom have paid for interest and charges of management, since that practice of creating and mortgaging public funds, was first brought into fashion amongst us.

It may, I know, be said, that if the whole money necessary for the current service is not raised within the year, the people must save so much money in their pockets, which they would otherwise be obliged to pay out, for making good the service; and that every private man may make above 5 per cent. of the money so saved, instead of 3 per cent. upon the sum which the public borrows for the current service; from whence it may be argued, that it is an advantage for every private man to run the public in debt, rather than raise, within the year, the whole sums necessary for the current service of the year. But do not we know, Sir, that every man looks upon the taxes he is obliged to pay yearly, as a part of his yearly expence; and the more taxes he is obliged to pay, the more he contracts his yearly expence upon other articles? This every prudent and provident man will do, when he feels the money going yearly out of his pocket towards the public expence; but when a public debt is contracted, and thereby a load thrown upon future generations for the ease of the present, no man, let him be never so provident, sits down to compute the ease he meets with, in order that he may save as much out of that year's expence, as may enable his posterity to answer the load thrown upon them. People consider only the yearly taxes they are subjected to, and proportion their expences upon other articles accordingly; so that posterity are so far from having the principal left them, with compound interest at 5 per cent. that they have neither principal nor interest left them; nor is it possible to persuade an heir, that any part of the estate left him by his ancestor, was saved for him, with a view of enabling him to pay his share of that public debt, which was contracted in the time of his ancestor.

To these misfortunes, Sir, let me add another, that the creating and mortgaging public funds necessarily contributes to the raising and keeping up the natural interest of money, or to the draining the nation of that gold and silver which is brought into it by its general balance of trade. As the natural interest of money, in all countries, depends upon the proportion between the demand for borrowing money at interest, and the demand for lending money at interest, by creating and mortgaging public funds, you increase the first demand, and consequently the natural interest of money must rise, unless you proportionably increase the other, and this you can no way do but by prevailing with foreigners to lend you a sum equal to that public fund you have established. If you can do this, you keep up the same proportion between the demand for borrowing money at interest, and the demand for lending money at interest, which you had in your country before that public fund was created; but then what is the consequence? The whole sum payable yearly by way of interest upon that public fund must be sent out of your country yearly in gold or silver, or it must prevent so much gold and silver yearly coming in to you, by means of your general balance of trade; for unless you create a new fund, your foreign creditors cannot possibly convert their interest into principal; and if you create a new fund, you add to your former misfortune, by increasing the annual draught of gold and silver from amongst you.

To apply this, Sir, to our present cir-

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cumstances; suppose the whole of our public debts amounts to 48 millions, and that but 10 millions of that capital belongs to foreigners, though I am convinced their share amounts to a much larger sum: in that case, you have taken 38 millions from the demand for lending money at interest in your country, and have added it to the demand for borrowing money at interest, which makes a difference of no less than 76 millions, and how this difference must affect the proportion between these two demands, and consequently the natural interest of money in this country, I shall leave to every gentleman that hears me to judge. Then as to the 10 millions belonging to foreigners, it is true, it prevents the difference between these two demands in this country being so great as it would otherwise be; but the consequence is, that the yearly interest of the sum of 10 millions, which is 400,000*l.* a year, must be sent out annually in gold and silver, or in goods and merchandize; for all bills of exchange must at last be answered by one or other of these funds. If it be sent out in gold and silver, it diminishes our national stock of gold and silver; if in goods and merchandize, it prevents its increase; because the price of those goods and merchandize must necessarily at last have been returned to us in gold and silver, if we had had no such interest to have paid yearly to foreigners. While the general balance of trade continues in our favour, the paying of this interest to foreigners will only prevent the yearly increase of our national stock of gold and silver; but as soon as the general balance of trade turns against us, this whole sum must be drawn out yearly in gold and silver, which must necessarily, in a few years, entirely exhaust our national stock of those two metals; and when that misfortune comes upon us, I am afraid we shall find but little comfort or relief in our paper credit.

This consideration alone, Sir, I should think, would make every gentleman resolve to submit to any tax, rather than run the nation further into debt; and I am sure it ought to make every minister resolve to contract the public expence as much as possible. There are many other misfortunes and inconveniencies attending the creating and mortgaging of public funds; but I shall not trouble you with enumerating any more of them at present; I think, I have said enough for convincing every man, who has a sound heart as well as a sound head, that any project for running the nation into a new debt must be a most pernicious sort of means for supplying the current service of the year. If so, I am sure every gentleman that hears me, would give his negative to the question, if there should be an occasion; but there will not, I believe, be any occasion for a negative; because, if the honourable gentleman, who made you this proposition, views it in the same light I do, I am sure he will most readily give it up. It may, perhaps, be said, Will you leave the current service unprovided for? Will you allow the session to break up without providing for those supplies you have already granted? No, Sir: several other methods may be thought of: I have hinted at one, which I am sure would be sufficient; I mean, that of abolishing several of our unnecessary posts and employments. A committee for that purpose, if we were unanimous, would soon find out a fund for answering the present deficiency; and, I am certain, there is no method that will be more effectual for producing that unanimity, than our rejecting or dropping the proposition now before us; for which reason, if it be insisted on, I shall most heartily give my negative to the question.

The Reply was to the effect as follows:

Sir; I am glad to find, that every gentleman who has argued for, or against the question now before us, seems to be of opinion, the Supplies we have already voted, ought to be made good, some way or other. When these supplies were granted, I easily foresaw, that the malt-tax and a land-tax of 2*s.* in the pound, would not be sufficient for answering them; and I confess, though I saw the necessity of the supplies we had agreed to, I was under some uneasiness to think how it was possible to make good the deficiency; because, I thought it would be hard to load the people with any new or additional tax, or to make any incroachment upon the sinking fund; but my uneasiness was fully removed, as soon as my honourable friend had explained the method he had thought of, for making good that deficiency. The method he proposed, and which we have now under our consideration, appeared to me so easy, and I beg his leave to say, so ingenious, that I imagined it would have been agreed to without any opposition; but this is a fate, which I am glad to find few or no propositions are like to meet with in this House: for a bad one ought, and, I hope, always will be opposed; and

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a good one derives great advantages from opposition, because its usefulness from thence appears in a much clearer light. As I very much approve of the method proposed by my honourable friend, for making good the deficiency of the supplies for this year, I shall endeavour to remove the objections that have been made to it, and then I shall endeavour to shew the injustice and impossibility of the other methods that have been proposed, or rather hinted at in this debate.

I as heartily wish, Sir, as any gentleman can do, that we could contract the public expence, so as to make the malt-tax and a land tax of 2*s.* in the pound, sufficient for answering it yearly; but the public expence, as to its quantity, neither depends upon our resolutions, nor upon the will and pleasure of those who have the honour to be in the administration of our government. The annual public expence in this country, as well as in every other country, depends upon the necessities of the government only, and ought to be increased or diminished only according to those necessities. In arbitrary countries, the ministers are the only judges of those necessities, and of the sums that will be sufficient for answering, as well as of the ways and means most proper for raising them; but, in this happy country, our ministers are no judges in either of these respects: their business is only to lay before parliament what they think will be the necessities of our government for the ensuing year, and what sums they think will be sufficient for answering those necessities. When they have done so, they are, as it were, *functo officio*, they have nothing more to do; for the parliament is then to judge, Whether those necessities are real; Whether a less sum may not be sufficient for answering those necessities: And what ways and means are most proper for raising those sums, that shall be thought necessary. Of these three questions, we have already determined the first two; and now we have the third under our consideration.

In determining this third question, we certainly ought, Sir, to chuse such ways and means as may be sufficient for the end proposed; such as may be least burdensome to the people, and such as may seem to occasion the fewest murmurings against the government: and, that the method now proposed to us has every one of these three advantages, will best appear from answering the several objections that have been made to it. I shall grant, Sir, that some sort of comparison may be made between the public revenue of a nation, and a private man's estate; and that a mortgage upon either, must be a loss to posterity, and a diminution of the estate, till that mortgage be cleared; but there is a very great difference between what may be called a loss to posterity and what may be called doing them a real injury: a private man who mortgages his estate, in order to support his luxury or extravagance, does a real injury to his posterity: but he, who by some cross accident is obliged to mortgage his estate for the preservation of himself and family, does no injury to his posterity, though he subjects them to a loss. In the same manner, a nation may often, for self-preservation, be obliged to be at a much greater public expence than can possibly be raised within the year, and must then necessarily mortgage some part of its public revenue; which is so far from being an injury to posterity, that there is nothing more just and reasonable; because, as future generations are to reap a great part of the benefit, they ought to pay some part of the expences which were necessary for obtaining and preserving that benefit.

Not only necessity, therefore, Sir, but even common justice may sometimes require, that a public debt should be contracted, rather than lay too heavy a load upon the people for any one year, or for any number of years; and whatever inconveniencies or disadvantages such a measure may be attended with, the necessity of affairs will always be a full justification of those, who pursue it. But, I cannot think, the disadvantages attending such a measure are near so grievous as have been represented; for as to the interest and charges of management, the money paid by the people for those purposes is seldom any real loss to the nation, because it is, generally, all divided among our own people; there is but a very small share of the interest belongs to foreigners; and what goes out that way is attended with this advantage, that it procures the nation some friends in foreign states, who have often great weight in their councils, and, consequently, may prevent their joining in any measures with our enemies. Then, as to the effect this measure may have upon the management of public money; I hope it will not be said that ministers are to be judged or punished by the people, in a mobbish and riotous manner, their conduct is always to be

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enquired into and judged of by the representatives of the people in parliament assembled: and, surely, no gentleman of this House will ever be influenced, upon any such occasion, by what the people feel, or say they feel; nor can we suppose, that any gentleman of this House will ever approve of any article of expence proposed, only because his posterity, and not he, are to suffer for it.

I should be glad, Sir, we could raise the Supplies of this year within the year; I should be glad our public necessities never required any greater expence than what the public revenue would answer; but for the reasons I have given I cannot admit it as a general and infallible maxim, that we ought never to contract any public debt, or make any public mortgage; for when it becomes necessary to raise any large sum for the service of any one year, I shall be for giving the people such a sufficient time for paying it, as may not subject them to any great difficulty. In private life it has always been looked on as an advantage and an ease to a man to give him several terms for paying a large sum of money; and the case is the same with respect to the people; it will be much more easy and advantageous for them to pay 400,000*l.* with the growing interest in 17 years, than to pay 400,000*l.* at one payment, in any manner you can contrive for raising it; so that if the method now under our consideration were really a mortgage of some part of our former revenue, consequently a diminution of the public estate, I should be for agreeing to it; but it is really neither the one nor the other: It is an improvement of the public revenue and estate; and surely posterity cannot find fault with us for mortgaging, for a few years only, the produce of that improvement. If a private gentleman should by any improvement add 100*l.* a year to his estate, and mortgage that improvement for 17 years only, surely his son would have no reason to blame his conduct, even though he should die immediately after having made that improvement and mortgage, and all future generations would have reason to bless him.

From this single consideration, Sir, all those objections that are founded upon the inconveniences of mortgaging the public revenue must vanish; and the debt to be contracted is so small, and the interest it is to be borrowed at so low, that it can no way affect the natural interest of money, either upon public or private securities.

Now, Sir, with respect to the objection which impeaches the proposition under our consideration, with being either a proposition for a new tax, or a proposition for making an encroachment upon the Sinking Fund, I was, indeed, not a little surprized to hear it not only said, but insisted on, that the duty proposed to be laid on any sort of Sweets was a new tax; considering how general the words are of all the acts of parliament by which the present duty was established or continued. The words of that law in king William's time, by which a duty was first laid upon Sweets, are, 'For every gallon of mixed liquors, 'commonly called Sweets, made from fo-'reign or English materials:' And by the act of the 5th of the late queen, by which the present duty was first established, the words are, 'For every barrel of Sweets 'made for sale.' It is true a doubt has since arisen from the description of Sweets contained in another act of king William's reign; but as that of the 5th of queen Anne is a subsequent law, and as the words of it are general, the intention certainly was to subject all liquors, commonly called Sweets, to the present duty, if they were made for sale; therefore we must suppose that this doubt's not being cleared up by a trial, as well as by the opinion of lawyers, does not proceed from any neglect in the officers of the revenue, or from their finding the opinion of lawyers against them, but from every man's being persuaded there was no foundation for the question, therefore no man would stand the event of a law-suit upon it; and the small produce of the duty must be imputed to the same cause; for as every man knew he must pay 36*s.* a barrel, if he made any Sweets for sale, and that, considering the height of that duty, he could expect no advantage by the sale, therefore very few persons attempted to make any such liquors for such a purpose, ever since this duty was imposed. Therefore, the duty now proposed to be laid on Sweets is so far from being a new tax, that every man in the kingdom will look upon it as a release from an insupportable tax, and as a restoring him to the full use of his garden and orchard, which he has been deprived of ever since the present high duty on Sweets took place.

I shall readily acknowledge, Sir, that the present duty on Sweets stands appropriated to the South Sea company, and if the produce of that duty had ever been or could ever be worth taking any notice of,

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the applying it to the current service would be an encroachment on the Sinking-Fund, because it would be necessary to make it good to the South-Sea company out of the Sinking-Fund; but the South-Sea company can have no right to any thing but the produce of the present duty, and if you were to abolish the duty entirely, all that the South-Sea company could lay claim to would be a future annuity equal to that produce, at a medium ever since the duty was first granted to them. Suppose no other or heavier duty had ever been laid on Sweets than 1*s.* per barrel, which was the first duty imposed on such liquors; suppose that duty had been granted to the South-Sea company for securing to them the payment of their annuity, and suppose we were now to lay an additional tax of 11*s.* per barrel on such liquors, would the South-Sea company have any right to that additional tax? Or would the applying of it to the current service be any incroachment upon the Sinking-Fund? For the same reason, if by any new regulation you make a considerable increase in the produce of the tax, the South Sea company can pretend no right to that increase, nor can the application of it to the current service be deemed an incroachment upon the Sinking-Fund. The utmost that can be pretended is, that a future annuity ought to be paid out of that increased produce to the South-Sea company, or to the Sinking-Fund, equal to the former produce at a medium, from the time it was first appropriated to the payment of our debts. Such a future annuity would, I say, be the only thing that could, with any shadow of reason, be contended for, and in the present case that annuity would be so inconsiderable, that it is not to be regarded.

Thus it appears, Sir, that the method proposed for making good the deficiency in the supplies for this ensuing year can neither be called a proposition for imposing a new tax, nor can it be called a proposition for making an encroachment upon the sinking fund, or upon the right of the South Sea Company. But we have been told, that the duty proposed will either produce little or nothing, or it will subject a great number of our people to excise laws. As to the future produce of the duty, it is impossible to foretel with any certainty what it will amount to; but the lowest computation I ever heard of was 20,000*l.* a year, and if the future produce amount to that sum, it will be sufficient for the end proposed, because it will not only pay the growing interest yearly, but will likewise pay off a part of the principal yearly, so that the whole may be at last discharged by the means of this duty only. Then as to excise laws, I have, it is true, heard a great many exclamations against the rigour of such laws, and against the inconveniencies and the consequences of subjecting our people to such laws; but the misfortune is, that all these suppositions are contradicted by experience; for we have, for near this century past, had such laws in this kingdom, without being sensible of the least inconvenience arising from them; and I believe those who are subject to them live as happily and as independently as those who are not. These laws are certain, and publicly known, and therefore those who are subject to them can be under no dependance upon the officers, but upon the laws themselves. If they conform to the law, they have not so much as a favour to ask of any commissioner or officer of excise; and if any officer behave rudely in the execution of them, or commits any trespass, he may be prosecuted for it, as easily as any other subject. This they are sensible of, and therefore they have hitherto generally done their duty with as much civility and good-nature as was possible; so that fair traders who bring themselves under no suspicion, are seldom or ever subjected to any inconvenience, nor are they ever visited or disturbed at unseasonable hours.

But, Sir, supposing the excise laws to be as dangerous and as oppressive as they have been represented, our farmers, our wine-merchants, and vintners, will be in the same case they are at present; for if any of them should begin to make Sweets for sale, they would subject themselves to the excise laws, even as the duty stands regulated by the laws now in being; and though the consumption of such liquors should be very much increased by diminishing the duty, as it probably will, it does not necessarily follow that every farmer who has an elder-hedge, or a gooseberry bush in his garden, should become a maker of Sweets, no more than it is necessary for every man who has an acre of barley to become a brewer or a malster. If the consumption should become very extensive and general, it is certain that proper persons will set up the trade for making such liquors for sale, and will purchase fruits for that purpose from the farmer at a reasonable price, in the same way as brewers, distillers and malsters now purchase their

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barley. The only difference I can see, is, that by this new regulation, our farmers will be put in a way of making an advantage of their farms, which they have been debarred from ever since the high duty upon Sweets took place; and the more advantages they are enabled to make of their farms, the better able will they be to pay their rent to their landlords; so that every landed gentleman has, in my opinion, great reason to approve of the proposition now before us; for if it does not improve the rent of his estate, it will at least contribute towards rendering the payment of that rent more certain and punctual.

I hope, Sir, I have fully answered all the objections made against the proposition now before us, and as all the gentlemen who have spoke upon the other side of the question, have acknowledged, that the supplies we have agreed to ought to be made good by some means or other, I wish they had directly and plainly proposed some other method; for upon setting the two methods in opposite lights, it would have been very easy to have determined, which of them ought to be preferred. They have, indeed, given us some sort of hint of two other methods, one of which, I mean that of an additional shilling in the pound upon land, might have bore some sort of comparison, if the land-tax for this ensuing year had not been already settled, and the bill actually brought in; so that it is now too late to think of any such method; but if it were otherwise, if the land tax were still to be settled, I am sure it would be very easy to shew, that of all the methods we can think of for raising money, that of over-loading the landed interest is the most unjust, the most grievous and the most dangerous. Even two shillings in the pound upon land is a great deal too much, when the whole public expence does not amount to much above two millions; for as every man ought in justice to be made to contribute to the public expence, according to the share of riches he possesses, and as the lands in Great Britain are not near equal in value to the other riches of the nation, it is doing an injustice to the landed interest, to make them contribute one moiety of the public charge, which will be their case for this next ensuing year. But as the land tax is now entirely out of the question, I shall not take up your time with enlarging upon the subject.

The other method hinted at is a method extremely plausible in appearance, but I question much, Sir, if it will ever be found practicable; that I am sure, it cannot be proposed as a method for raising any part of the supplies we have already agreed to for this ensuing year. In effect, it cannot properly be called a method of providing for supplies; it is rather a method for diminishing the usual necessary supplies, and cannot therefore come properly before us in this Committee. I do not at all question but there are many sinecure posts in this kingdom, as well as in every other, and many useless or extravagant salaries. Some of them might perhaps be abolished; but I doubt much if it will ever be in our power to abolish them all, and therefore I am afraid the saving in that way, upon the severest scrutiny, would not amount to near the sum the hon. gentleman supposes. However, let it amount to what it will, it cannot be made a provision for the supplies of the next ensuing year; because if we were immediately to appoint a Committee for enquiring into that affair, we cannot suppose that Committee would be able to go through the business in this session, nay, I doubt much if they would be able to make even a partial report; and as many of those posts, I believe most of the useless ones, are held for life, and are a sort of free-hold, we could not at once, and without any consideration, turn the present possessors out of their free-hold; therefore, from such an enquiry the nation could not expect any great immediate advantage; at least, not such a great and immediate advantage, as would be sufficient for making good the deficiency in the supplies for the next ensuing year.

I hope, Sir, I have said enough for convincing every gentleman, that the method now under our consideration, for making good the supplies of this next ensuing year, will in all probability be sufficient for the end proposed; and that of all the methods that have been proposed, or so much as hinted at, it is the least burdensome, and the least liable to occasion any fresh murmurs among the people; therefore it is certainly the method we ought to chuse. It is, indeed, in my opinion, the only method we have to chuse; for, I think, I have shewn, that the other two methods that have been mentioned, are both impracticable; and as I join in that which seems to be the general opinion, that the supplies we have already voted ought to be made good, I think I am both in honour and conscience bound to give my assent to the proposition now before us,

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because it is the only method we can chuse for doing that which every gentleman acknowledges ought to be done.

This is the substance of the several Debates which happened in this affair relating to Sweets; in which those who were for the Duty got the better upon every division, except one, which was in relation to that clause in the Bill, whereby it is provided, That nothing in that act contained should extend, or be construed to extend, to charge with any duty such wine as the owners or occupiers of British vineyards should make from the juice of the grapes only growing thereon; for the adding of any such clause, to exempt such liquors from the duty on Sweets, was opposed by most of the gentlemen who were favourers of the Duty and Bill; however, upon a division it was carried against them, and the Clause, as it now stands, was accordingly inserted in the Bill.

Debate in the Commons on Sir Robert Walpole's Motion for applying the Produce of the Sinking-Fund to the Redemption of the old South-Sea Annuities.*] March 9. The House having resolved itself into a Committee of Supply,

Sir *Robert Walpole* spoke to the following effect:

Sir; I have a proposition to make to the House, which I think will tend to the advantage of the public, and against which there cannot, in my opinion, be any objection made, therefore I hope it will be agreed to without opposition; but in order to make gentlemen thoroughly comprehend the advantage of what I am to propose, I must beg leave to explain a little the present circumstances of the Sinking-Fund, and the method hitherto observed with respect to the disposing of the produce of that Fund.

We all know, Sir, that the whole produce of the Sinking-Fund must be regularly, as it arises, deposited in his Majesty's Exchequer, and there wait the future disposition of Parliament, so that no part of it can be applied to any use but that to which it has been appropriated by some preceding session; and the method this House has generally taken for disposing of that fund, has been, to resolve itself into a Committee of the whole House, to consider of the application of the growing produce of the Sinking-Fund. This has always been the method we have hitherto taken for applying that Fund towards paying off any part of the national debt; and as we seldom or never pay off under a million at a time, there is generally 5 or 600,000*l.* part of the produce of that Fund, which lies for several months quite dead and useless in his Majesty's Exchequer; which we must look on as a great disadvantage to the public, especially when we consider that the government is during that time obliged to borrow money at interest for answering the current service of the year.

This, Sir, has been the case for several years past, and must always be the case for every year to come, if the proposition I am to make, or something like it, be not agreed to; for it is well known the funds provided by Parliament for the current service of the year do not immediately produce such sums as are necessary for answering the charges of the government, and therefore his Majesty is every year empowered to borrow money for that purpose upon the credit of some of the funds granted by Parliament for the current service of that year; for which he is obliged to pay an interest of at least 3 per cent. which is an annual charge of 10, 15, or perhaps above 20,000*l.* a year to the public, and a charge which might, I think, be

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* "Sir Robert Walpole incurred great censure by the alienation of the Sinking Fund; and has been exposed to no less obloquy, for his opposition to sir John Barnard's Scheme, for reducing the Interest of the National Debt. He has been accused by party prejudice, or misapprehension, of the meanest motives for adopting this line of conduct: motives so contradictory, that they refute each other. By some, he was suspected of having clandestinely promoted the introduction of the bill. It was insinuated that, at first, he intended it should pass; and that he only deferred the measure until the queen, who was supposed to have a million in the funds, could sell out to advantage. Others, on the contrary, ascribe his opposition to the mean spirit of jealousy, and reproach the minister with having exerted the whole power of government, that he might deprive sir John Barnard of his due applause.

"In the committee of supply the minister moved a Resolution, that a sum of one million should be taken from the Sinking Fund, and applied to redeem a million of Old South Sea annuities. The motion was opposed by several members, principally of the minority, who argued for the expediency of appropriating that sum to the discharge of the debt due to the Bank, because the interest paid to the Bank was 6 per cent. whereas that on the other parts of the public debt did not exceed 4. They accordingly proposed the amendment; but the original motion was carried without a division." Coxe's Walpole.

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prevented, by enabling his Majesty to make use of the produce of the Sinking-Fund then lying dead in the Exchequer; and whatever sums might be found necessary to be taken from the Sinking-Fund for answering the immediate service, might be replaced by the produce of the annual funds, before Michaelmas, the time when the produce of the Sinking-Fund is generally to be issued by direction of Parliament for paying off a part of the national debt; or if the whole should not be replaced before that time, a small sum might then, and not till then, be borrowed for making good the deficiency; so that the government would never be obliged to borrow so large a sum, or for so long a time, as they generally are, according to the present method.

For example, Sir, the Produce of the Sinking Fund is generally computed from Michaelmas, to Lady-day, and from Lady day to Michaelmas; and it is to be supposed this House will, in the present session, order the sum of one million, being the growing produce of that fund from Michaelmas last till Michaelmas next, to be applied to the paying off so much of the National Debt: this payment cannot be made before Michaelmas next, and as the produce of that fund will bring into his Majesty's exchequer by Lady-Day next or soon after, 5 or 600,000*l.* that whole sum must, according to our former method of ordering the application of that fund, lie dead in the Exchequer, without its being in the power of the public, or the government, to reap any benefit from it; and in the mean time, as the produce of the annual funds cannot answer the immediate occasions of the government, his Majesty may probably be obliged at Lady-day next, or soon after, to borrow 5 or 600,000*l.* at an interest of 3 per cent. upon the credit, I shall suppose, of the Malt tax, in order to answer those demands which may occur before the produce of that tax can come in to satisfy them; now if his Majesty were empowered to make use of the produce of the Sinking-Fund in the mean time, it would prevent his being under a necessity of borrowing any money at Lady-Day next; and whatever should be found necessary to be taken in the mean time from the Sinking-Fund, might be replaced by the produce of the Malt tax, or some of the other funds provided for the current service of this next ensuing year, before Michaelmas next, which is the soonest any payment can be directed to be made out of the produce of that fund; or if the whole should not then happen to be replaced, a small sum might be then borrowed for a short term, in order to make good the deficiency, and to make that payment to the public creditors, which I suppose, will by this session be directed to be made at Michaelmas next.

I hope, Sir, I have explained myself so as to be understood by every gentleman that hears me; and if the House thinks fit to agree to what I propose, the proper method of doing it will, in my opinion, be, to come to a resolution in this committee to grant his Majesty a million towards redeeming the like sum of some of the public debts; and when we take this affair into our consideration in the Committee of Ways and Means, we may resolve, That towards raising the supply granted to his Majesty, there be issued and applied the sum of one million out of such monies as have arisen, or shall or may arise of the surplusses, excesses, or overplus monies, commonly called the Sinking-Fund. This, Sir, I take to be the proper method of carrying what I have proposed into execution, and if I find the House approves of it, I shall take the liberty to rise up again, and make you such a motion as, I think, ought to be agreed to in the Committee we are now in.

As this new method of ordering the application of the Sinking-Fund was generally approved of, sir Robert Walpole stood up on the 11th, when the House had again resolved itself into the said Committee, and after a short speech, moved "That the sum of one million be granted to his Majesty, towards redeeming the like sum of the increased capital of the South-Sea Company as is now commonly called Old South-Sea Annuities."

But as many gentlemen were of opinion the said Million ought not to be applied towards redeeming any part of the South-Sea Capital, but towards redeeming a part of the Bank Capital, there ensued a long debate, in which the Arguments for the motion were as follows:

Sir; As the Sinking-Fund is one of the most useful funds that ever was established in this kingdom, as it is the only fund from which we can expect a diminution of our taxes, and an ease to ourselves or our posterity, and as the disposition of that fund is left intirely to the wisdom of parliament, we ought to be extremely careful of applying it yearly to that purpose from which the greatest benefit may redound to our

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native country; and when we happen to be in circumstances so lucky as to be able to apply the whole Produce towards discharging so much of the National-Debt, the only two questions that can fall under our consideration, are,, what part of the public debts are most grievous to the nation in general? and, What part may be paid off with the greatest ease to those who are the creditors of the public? The first question deserves, and will certainly meet with our greatest regard; but if it should appear, that the interest of the public is no way concerned, which part of the National Debt shall be first paid off, the second question will then deserve our attention; because the greater regard we shew to the creditors of the public, the more we shall establish the public credit; and the more the credit of the nation is established, the more easy will it be for us to reduce the interest now payable upon our public funds.

If there were any of our public debts that bore an interest higher than the rest, that debt would certainly be the most grievous to the nation, and, consequently, ought to be the first to be paid off; but as the whole debt of the nation is now reduced to 4 per cent. or under, except about 1,600,000*l.* due to the Bank, which bears an interest of 6 per cent. and which cannot be redeemed till their term be expired, therefore, the rate of interest can be of no weight in the present question. With regard to the interest of the public, I can think of but three other motives that can induce us to pay off any one of the public debts, or a part of any one of the public debts, rather than a part of any other. The first I shall take notice of is, the amount of the sum due; for where several debts are due to several different persons, natural or political, that debt which is the largest is certainly the most grievous, and ought first to be paid off, or at least diminished so as to bring it upon a par with others. The next motive may be drawn from the taxes which are mortgaged for paying the interest; for those creditors to whom the most burdensome taxes are mortgaged, ought to be first paid off, in order that we may have it the sooner in our power to free the nation from those taxes: and the third motive depends upon the nature of those companies or corporations, to whom our present debts are owing; for a company that is engaged in trade, and is enabled to extend their trade further than they could otherways do, by means of that interest which is payable to them from the government, deserve better to have that interest continued to them, than a company, or set of men, who carry on no trade, or whose trade can receive no increase, by means of the debt due to them by the public: and therefore no part of the debt due to the former ought to be paid off, as long as there is any thing due from the public to the latter.

Now, Sir, with respect to every one of these motives, I think, they militate strongly in favour of the motion now made to you. The debt due to the South-Sea company is vastly larger than the debt due to any other company in the kingdom, and, therefore, not only according to the rules of proportion, but according to that rule which will always, I hope, be the chief director of our resolutions, I mean the interest of the nation in general, whatever payments we are able to make ought to be generally applied towards diminishing the debt due to that company; then as to the taxes mortgaged for the payment of our public debts, those which are mortgaged to the South-Sea company are the most burdensome, as will appear to any gentleman who examines into that affair; and of the three great companies who are the chief creditors of the public, it must be granted, the South-Sea company carries on the least trade, and is the least capable of extending their trade, by means of that interest or annuity which is due to them from the public. Thus in every light we can put it, if we have a proper regard for the interest of the nation in general, we must conclude, that we ought to apply the produce of the Sinking Fund towards paying off a part of the debt due to the South-Sea company, rather than any other; and as the debt due to them is now divided into three different parts, I think, the next payment ought to be applied to that part now called Old South-Sea Annuities; because the Annuities ought to be all paid off, before we pay off any part of their trading stock; and as the last payment was made to the New South-Sea annuities, the next ought to be made to the old.

But suppose, Sir, that the interest of the nation in general is no way concerned, which part of the public debt shall be first paid off; in that case we ought to shew a regard to the ease and advantage of the several public creditors, by making the next payment to those who will suffer the least by such payment's being made to

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them. It is now the good fortune of this nation to have its credit so well established, that all our public funds sell at an advanced price; so that it is a disadvantage and loss to every one of the public creditors to have any part of the debt due to him paid off; therefore, if the interest of the nation be quite unconcerned, we ought to direct the payments to be made to those who will suffer the least by having a part of their capital paid off; and of all the public creditors, the proprietors of the South-Sea Annuities are certainly those that will suffer the least; because as there is a much larger sum due to them than to any other set of public creditors, the loss cannot fall so heavy upon each particular person; and as the fund they are in possession of does not sell at a price near so high as either the Bank or the East-India stock, consequently the proprietors of South-Sea annuities cannot be such losers as the proprietors of Bank or East-India would be, in case the next payment were directed to be made to either of them; for a proprietor of South-Sea annuities can lose but 12 or 13*l.* by having 100*l.* of his capital paid off; whereas a proprietor of Bank stock would lose above 50*l.* and a proprietor of East-India stock would lose near 80*l.* by having 100*l.* of his capital paid off. From hence, Sir, it must appear, that if we have any regard to the creditors of the public, we must order the growing produce of the Sinking Fund for this current year to be applied to the paying off so much of the South-Sea Debt; and, therefore, I must conclude, that in justice to the public creditors, as well as in justice to the nation, the motion now made ought to be agreed to.

The Answer to this, and the Arguments made use of for shewing the reasonableness of making the next payment to the Bank, were in substance thus:

Sir; As to the usefulness of the Sinking-Fund, and the advantages the nation may reap from it, I entirely agree with the hon. gentleman who made you the motion, I think it is one of the most useful funds that was ever established in this kingdom, I know it is the only fund by which we or our posterity can expect to get free from any of those taxes which now lie so heavy upon our trade in general, and upon our poor labourers and manufacturers in particular; but I cannot agree with that hon. gentleman in opinion, that the disposition of the Sinking-Fund is left entirely to the wisdom of parliament. The contrary is, in my opinion, evident from the very words of those acts of parliament by which that fund was established; for by them it is expressly appropriated to the paying off such of the public debts and incumbrances as were incurred before the 25th of December, 1716, so that the only disposition left entirely to the wisdom of parliament is, with respect to the manner and method of paying off those debts. The parliament may direct what sum shall be paid off at any one time, and at what time such payment shall be made; or it may direct which of those debts any future payment shall be applied to; but by the original institution of that fund it was certainly designed not to leave it in the power of parliament to apply that sacred fund to any other purpose than that of paying off the National Debt contracted before the 25th of December, 1716; at least so far as any one parliament can limit or restrain the power of all future parliaments. How far, or in what case, any future parliament may or ought to break through that restraint, is a question which I hope, we shall have no occasion to discuss in this session. I am glad to find we have no such intention at present; for the only question now before us is, Which of the Public Debts contracted before the 25th of December, 1716, the next payment ought to be applied to? And in considering that question, I hope I shall be able to make it appear, that, if we regard the public good, and that impartial justice which is due to all the public creditors, the next payment ought not to be applied to the South-Sea stock, or Annuities.

With respect to the public good, or the interest of the nation in general, it has been granted, Sir, that if any of our debts bore a higher rate of interest than the rest, that debt would certainly be the most grievous to the nation, and consequently ought to be the first paid off; and at the same time it has been granted, that there is a debt of 1,600,000*l.* due to the Bank, which bears an interest of 6 per cent. Is it not, then, evident that this debt of 1,600,000*l.* ought to be the first to be paid off? But we are told, this debt cannot be redeemed till the expiration of their term. I know it cannot; and I likewise know, we cannot come at the redemption of this mortgage, till after we have paid off the whole of the other debts due to the Bank. Is not this a strong reason, Sir, for our paying off as fast as possible all the other debts due to

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the Bank, in order to come at the redemption of this mortgage of 1,600,000*l.* which is now the heaviest mortgage this nation groans under? And what still adds to the weight of this argument is, that by the time we have paid off the other debts due to the Bank, and for which they have only an interest of 4 per cent. their term will be expired, so that we can then redeem this heavy mortgage without further delay; whereas, if we do not now begin to pay off the other debts due to the Bank, we cannot, even when their term is expired, have it in our power to redeem this mortgage, because, by agreement, we cannot redeem it till we have paid off all the other sums due by the public to that company. Therefore, if we have any regard to the public good, we ought to apply every future payment to the Bank till they are entirely paid off, or at least till they agree to take 4 per cent. for this 1,600,000*l.* as well as for the rest of their fund, which would be a saving of 32,000*l.* per annum to the public, and a saving that would greatly contribute towards enabling us to reduce all our public debts to 3 per cent. interest.

Now, Sir, with respect to the other motives mentioned by the hon. gentleman, for inducing us to pay off a part of one debt rather than a part of any other, I shall readily admit, that it is more grievous to owe a large debt than to owe a small sum; but I cannot admit that, therefore, of two or more debts the largest ought to be first paid off, or at least diminished, so as to bring it upon a par with others; for in private life it is always reckoned better for a man to owe a large sum to one person, than to owe a sum of equal value to a great number of different persons; and for this reason we often find gentlemen of estates borrowing a large sum of money from one person, in order to pay off a great number of small creditors, though they seldom or never have, or can obtain that advantage which the public at present enjoy, of making partial payments to that large creditor. If a private man owed 1,000*l.* to one man, and 4 or 5,000*l.* to ten or a dozen different persons, though he had a privilege of making partial payments to his large creditor; yet, if he could have 500 or 1,000*l.* a year out of his estate, he would certainly apply that saving towards discharging his small debts, rather than towards discharging yearly a part of the large debt. In like manner with regard to the public, it was formerly reckoned better to owe a large sum to the South Sea Company, than to owe the same sum to a great number of private persons; which was one reason among others, for inducing the legislature to grant them a power to take in by purchase or subscription, or pay off all the irredeemable and redeemable debts then due by the public to a great multitude of private persons. This, I say, was then deemed to be a benefit to the public, and will certainly appear to be such, as often as the public has any proposition to make to its creditors; so that the largeness of the South Sea debt, in comparison with the debt due to any other company, should rather be an argument for making no partial payments to them till all the other smaller debts be first paid off.

But, Sir, there is another advantage which will accrue to the public from paying off the whole, or a great part of the debt, due to the other companies, which will appear evident to every gentleman, who considers, that a trading company possessed of an exclusive privilege, must always come to be a great disadvantage to the trade of every country, where such a company is established, and continued; for though in the infancy of any particular sort of trade, it may be necessary to erect a company for setting it up; yet, when the trade comes to be sufficiently established, when great numbers of our own people are well acquainted with it, and willing to carry it on in a private way, the continuing of the company, or at least the continuing of their exclusive privilege, must be a disadvantage to the trade of our country; because a company can never carry on a trade at so cheap a rate as private persons can do, and are therefore not so capable of preventing foreigners from interfering with us in the trade; for as they are always at a great expence, they must have great profits, and great profits not only tempt, but enable foreigners to interfere with us in any trade. It is not now necessary to shew that the exclusive privilege enjoyed by the Bank and East India Company is a disadvantage to the trade of the nation in general: it is sufficient at present to observe, that this exclusive privilege cannot be taken from either of them, till every shilling due to them by the public be paid off; so that the expiration of the term for which that privilege has been granted signifies nothing, as long as there is any money due to them; and sure it would be an advantage to the public, to have it in our power to put an end to that privilege

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as soon as the term expires, in case it should then appear to be a disadvantage to the trade of the nation; which power we cannot acquire but by paying off, in the mean time, a great part of the capital of each. This is an advantage we cannot acquire by any payment made to the South Sea Company; because the exclusive privilege granted to and enjoyed by that Company, is a privilege granted to them for ever; and therefore the public good of the nation is not so much concerned, nor can ever be so much concerned, in the paying off the whole capital due to them, as it may be in paying off the whole capital due to either of the other two.

From what I have said, Sir, in relation to trading companies with an exclusive privilege, it must appear, that when the trade is once generally known, and thoroughly established, if you can redeem and abolish their exclusive privilege by the redemption of the annuity or interest payable to them, you ought as soon as possible to redeem both the one and the other; because by laying the trade open you will increase rather than diminish the trade of your country. Indeed, if the Company has an exclusive privilege which you cannot take from them, even after you have paid off the whole debt due to them, the paying off such a debt may be a disadvantage to your trade, because you may, by so doing, prevent the Company's being able to push their trade so far as they might otherwise have done; and at the same time all private adventurers are precluded from engaging in it by the continuance of the Company's exclusive privilege; therefore it is inconsistent with the public good to pay off any such debt, or any part of such a debt, as long as there are any other public debts to be paid off; and does not every one see, that this is a good argument against making any future payments to the South Sea Company? For the interest payable upon their Annuities may contribute as much as the interest payable upon their stock, towards enabling them to extend their trade; because, the only way by which either can contribute towards enabling them to extend their trade, is by the money's lying for some time in their hands, before they be obliged to issue it to the proprietors; and the interest money of their annuities lies as long in the Company's hands before they be obliged to issue it for paying the half yearly Annuities grown due to the annuitants, as the interest money of their stock can do, before they be obliged to issue it for paying the half yearly dividends grown due to the proprietors of their trading stock.

As for the taxes mortgaged to the South Sea Company, or to any other company, they can be of no weight in the present debate; for whenever we have a mind to abolish any of our present heavy taxes, we know, Sir, there is no company nor public creditor in England, but will be glad to consent to the abolishing of any such tax, and to accept of an annuity payable out of the Sinking Fund, in lieu of the annuity payable to them out of the produce of that tax. This we know by a late experiment in the case of the Salt Duty, which was once by this House resolved to be the most grievous tax in England, and was therefore abolished. In that case we know, Sir, how readily the South Sea and other companies agreed to take annuities payable out of the Sinking Fund, in lieu of the annuities payable to them out of the produce of that tax; but so variable are the sentiments of some gentlemen, that in two years time, that very tax was deemed not near so grievous as a shilling in the pound upon land, and therefore it was re-established for three years, and granted for supplying the current service of the year, in order to prevent our being obliged to lay an additional shilling in the pound but for one year upon land; and I think it has since been continued for seven years longer, for the very same reason and purpose. Nay, I am afraid we are loaded with it for ever; for as it is a tax that creates a great deal of power, though it produces but little money, I believe it will always be preferred by a certain sort of men to any tax that may produce a much greater revenue without propagating any sort of power. As for my own part, I still continue to think it one of the most burdensome and dangerous taxes we are subject to; and notwithstanding the low interest paid for the money due upon it, I should think, one of the best uses we could convert the Sinking Fund to, would be, to apply it towards redeeming and abolishing of this tax; because if we consider the expences of collecting it, and add that expence to the interest paid for the money borrowed upon it, we must conclude, the nation pays a heavy interest for that money, besides the danger our liberties may be exposed to by continuing a tax which creates so much power and produces so small a revenue, and besides the

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danger our trade may be exposed to by a tax which enhances the price of labour in every branch both of our manufacture, agriculture, and navigation. Nor would the applying the Sinking Fund to such an use be a new perverting of it; for as this tax was formerly one of the taxes appropriated to the payment of our debts contracted before December 25, 1716, the applying the Sinking Fund towards abolishing it, and then reviving it for supplying the current service of the year, was the same thing as if we had then taken such a sum from the Sinking Fund, as would have been sufficient not only for supplying the current service of the year, but redeeming the tax we had then a mind to abolish, for the ease of our poor labourers and manufacturers. But as I have at present no intention to make any proposition for applying the Sinking Fund to such a purpose, I shall insist no longer upon this subject.

The proper question now before us I take to be, Sir, Whether the next payment from the Sinking Fund ought to be made to the South Sea Company or the Bank? And as I set out with saying, that if we shew any regard to the public good, or to that impartial justice which is due to all the public creditors, we ought not to apply the next payment to the South Sea Company, I think I have shewn that, with respect to the public good, none of the motives mentioned can induce us to apply the next payment to that Company, but that on the contrary, every one of those motives are strong arguments for not making any future payment to them, till all or most of our other debts be entirely paid off. Now, Sir, with regard to that impartial justice which we ought to shew to all our creditors, I shall grant the credit of the nation is now so well established, that all our public funds sell at an advanced price, and that therefore it is a disadvantage to the public creditors to be paid a part of what is due to them; but the only way of preserving the credit we now have, is to pay off our debts as fast as possible without contracting any new debt, and in making such payments, to shew no partiality or favour to one set of public creditors more than another. No man can find fault with us, or complain of partiality, on account of our having a regard to the public good, and paying off those creditors first, whose debts, by reason of any interest, privilege, or circumstance attending them, are most burdensome or inconvenient to the nation in general; but so far as our creditors are upon an equal footing with respect to the public good, as it is a disadvantage to every one of them to receive payment of the whole, or any part of the debt due to him, we ought to regulate our payments in such a manner as that the disadvantage may fall upon all, exactly in proportion to the share each man, or every set of men, have in those debts.

According to this proportion, Sir, we have already done injustice to the South-Sea company; for to take the capitals of the South-Sea, Bank, and East India, as they stood in the year 1727, when the great reduction of public interest took place, and to which national advantage the South-Sea company contributed a great deal more than its share, we must reckon that every fourth payment at least ought to have been made to the Bank, and every eleventh or twelfth to the East India company; whereas we have already made five several payments of a million each to the South-Sea company, and one of 500,000*l.* without paying so much as one shilling of the capital either of the Bank or East-India company; for though one million has been paid to the Bank, yet care was taken their capital should not be thereby diminished, because the very next following year a new sum of 1,250,000*l.* was borrowed from them, which must be redeemed, as well as every other shilling due to them, before the nation can get free of their exclusive privilege. Can this, Sir, be called impartial justice, or can it be said we have shewn this partial favour to the Bank and East India, for the sake of public good, and because it is for the interest of the nation to support these two companies, and continue them in possession of that exclusive privilege they now enjoy, and by which they have for many years made so great an advantage? No, Sir; I have shewn that if the public good be engaged on either side of the question, it is on the side of the South-Sea company, both because the greatest debt is due to them, and because we cannot redeem their exclusive privilege by the redemption of their capital, which we may do with respect to the other two.

But, Sir, we are told we ought to shew a regard to the private interest of the public creditors, by directing all future payments to be made to those who will suffer the least by having a part of their capital paid off. With all my heart, Sir,

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let us shew as much regard to the private interest of our creditors as the public interest will admit; but do not let us shew a partial regard to any one of them, or to any set of them. We have already shewn a partial regard to the Bank and East India Company; we have already done injustice to the South-Sea Company. This is the chief reason for their Annuities selling at so low a price; and from this, which is the effect of our former partiality and injustice, an argument is now drawn for continuing that injustice in all times to come. I say in all time to come, at least till our debts be all paid off, which must be a very long time, if we are to form a judgment of it from our management for these twenty years past; for if this argument be now of any force, it will every year acquire new vigour, because the partiality we shew to our other funds, will make them increase in their current value from year to year. From hence we may see the weakness of this argument, and surely if we are to shew a favour to any of our creditors, or a partial regard to the private interest of any set of them, it ought to be to those who have made the least advantage by lending their money to the government; consequently the Bank and East India ought to be the first paid off, because the proprietors of both these Companies have been for many years receiving large additional dividends from the profits of their trade; whereas the proprietors of South-Sea Stock or Annuities have never received so large additional dividends from the profits of their trade, nor have they received any such dividend for so long a time.

For this reason, Sir, it must be granted, that though the proprietors of Bank and East India should really lose a little more than the proprietors of South-Sea Annuities, the former will be much better able to bear that loss than we can suppose the latter to be; because the more they have got by additional dividends, the better able will they be to bear the loss they may sustain by being paid off. But, Sir, I must upon this occasion take notice, that the South-Sea Annuities are not at so low a price in proportion to our other funds as some gentlemen may imagine, nor will the difference between the loss they may sustain by having this next payment applied to them, and the loss the Bank or East India proprietors might sustain by its being applied to them, be near so great as the honourable gentleman has been pleased to represent. For South-Sea Annuities, in proportion to their dividend, are really at a higher price than Bank stock is at present; because, if 4 per cent. per annum, the dividend of these annuities, gives 113*l.* their present price 5*d.* $\frac{1}{2}$. per cent. per annum, the dividend upon Bank stock, ought to give above 155*l.* which is more than the present price of Bank stock; and with respect to East-India stock, the present price of it is not, in proportion to its dividend, much above the present price of South Sea Annuities; for if 4 per cent. per annum give 113*l.* 6 per cent. per annum, the present East-India dividend, ought to give near 170*l.* so that at 180*l.* the present high price, it is but 10 per cent. above the proportion, and this advance, we may believe, is in a great measure owing to the certainty the proprietors have of not being obliged to receive any partial payments for many years to come.

Now, Sir, with respect to the loss either of these sets of public creditors may sustain by having the next payment applied to them, it is certain the South-Sea Annuitants will lose the whole advance price, that is, every one of them will lose at the rate of 13*l.* per cent. upon whatever money he receives as his share of that partial payment; but we are not to suppose, that the proprietors of East-India Stock will lose at the rate of 80*l.* per cent. or that the proprietors of Bank Stock will lose at the rate of 50*l.* per cent. upon whatever money any of them shall receive as his share of this next payment, if it were to be made to either of them; because, though a proportional part of the annuity due from the government will cease in every one of the three cases, yet, in the case of the Bank and East-India company, the proprietors have another sort of Annuity, an additional dividend, which arises from their trade; and as the trade of neither of them cannot either cease or be diminished by this next partial payment's being made to them, by the reduction of their capital, this additional dividend must of course increase upon the whole remaining capital, and consequently, the current price of the whole remaining capital must rise a great deal above the present market price.

To illustrate what I have said, Sir, by figures, as far as the present opportunity will permit, I shall suppose the capital of the South-Sea Old Annuities not to exceed 10,000,000*l.* the capital of the Bank not to exceed the like sum, and the capital of the East-India Company not to exceed 3,000,000*l.* I know every one of these

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capitals exceed the sums I have mentioned, but in the present case the calculations will be the same, let their capitals amount to what they will; and, I suppose these round sums, that my calculations may be the more easily understood. Now, suppose the next payment is to be made to South Sea Old Annuities, as the honourable gentleman has proposed; in that case a proprietor of 1,000*l.* capital will receive 100*l.* of his capital, and, consequently, will for the future, without a new purchase, stand possessed of 900*l.* capital only; so that he will lose the advanced price, being 13*l.* upon the 100*l.* paid off, no part of which loss can be replaced to him by any advantage his remaining capital will receive, by means of the payment then made by the public. Let me next suppose the payment now under our consideration to be made to the Bank: in that case a proprietor of 1,000*l.* capital Bank stock will receive 100*l.* consequently he must have 100*l.* of his capital annihilated, and will, therefore, for the future, without a new purchase, stand possessed of 900*l.* capital only; so that he will lose the advanced price, being 50*l.* but I shall now shew that a great part of this 50*l.* will be replaced to him by an advantage his remaining capital must necessarily receive, by means of the payment made by the public; for as the Bank make at present an additional dividend of $1\frac{1}{2}$ per cent. per annum, out of the profits by their trade, upon their whole capital of 10,000,000*l.* as that capital will then be reduced to nine millions, and no part of the profits by their trade will cease or be diminished, because of the payment thus made to them by the public, their whole profits which were formerly divided upon ten millions capital, will for the future come to be divided upon nine millions capital only, which must necessarily increase their future dividends, and consequently enhance the price of every man's remaining stock: as the Bank divides at present $1\frac{1}{2}$ per cent. from the profits of their trade upon the supposed capital of 10,000,000*l.* we must reckon the nett profits of their trade to amount to 150,000*l.* per annum, and as this 150,000*l.* per annum will afterwards come to be divided upon nine millions capital only, the additional dividend from the profits of their trade will then amount to 1*l.* 13*s.* 4*d.* per cent. instead of 1*l.* 10*s.* therefore the future dividend of the Bank, if this payment be made to them, must necessarily be 5*l.* 13*s.* 4*d.* and if a dividend of 5*l.* 10*s.* makes their capital sell at 150*l.* per cent. a dividend of 5*l.* 13*s.* 4*d.* will make their remaining capital, after a million paid off, sell at 154*l.* 10*s.* and upwards; so that every proprietor of 1,000*l.* capital, will gain by the advanced price of his remaining 900*l.* capital, very near 41*l.* and consequently, we must reckon, that no proprietor of Bank stock will lose more than at the right of about 9*l.* per cent. by this next public payment's being made to the Bank; whereas every proprietor of South Sea Old Annuities will lose at the rate of 13*l.* per cent. by its being made to them.

By the same method of calculation, Sir, we may find, that if a million were to be paid at Michaelmas next to the East-India Company, and their stock supposed not to exceed 3,000,000*l.* the proprietors would not lose above 20*l.* per cent. upon the stock annihilated by such payment; because, as the whole profits of their trade would then come to be divided upon two millions capital instead of three, every man's remaining stock would rise in proportion to the increase of the dividend, which advantage upon his remaining stock would atone for the far greatest part of the loss upon his annihilated stock. But, as I do not intend at present to make any proposition for applying the growing produce of the sinking fund to the East India Company, I shall not trouble you with the particulars of the calculation. I know it may be said, that as every payment made by the public sends a greater number of purchasers to market, the price of South Sea Old Annuities will certainly rise by such payments being made to them; but this I have taken no notice of, because it is an advantage will accrue equally to the three companies, or to which either of them the payment shall be made to; and, therefore, can make litttle or no difference with respect to the loss the proprietors of either of them may sustain by having a part of their capital paid off.

Thus, Sir, it must appear, that if we have a mind to shew a proper and impartial regard to the public creditors, we cannot order the present growing produce of the sinking fund to be applied towards paying off any part of the South Sea Company's capital; and if we have a mind to direct this next payment to be made to those who will suffer the least by having a part of their capital paid off, I have shewn that the proprietors of the Bank will suffer the least, and therefore the next payment ought to be made to them. But

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if we have a mind to shew a partial favour to any one set of public creditors, certainly the South Sea Old and New Annuities deserve it more than any other; for upon examination it will be found, there are among them more creditors in proportion for small sums, than there are in any of our other public funds; and as a rich man is better able to bear a loss than a poor man, that fund which has the greatest number of poor men in it deserves surely most of our compassion, and consequently most of our favour. To this I shall add another motive for shewing more favour to the South-Sea annuitants, than to any other set of public creditors, which is this: it will, I believe, upon examination appear, that among the South-Sea annuitants, there is a much smaller number of foreigners in proportion, than there is among the proprietors of any other of our funds; and I must think, that fund deserves most favour from a British parliament, which is most generally possessed by British subjects, or at least it deserves equal favour, which is all I have occasion for at present, for shewing that the next payment ought not to be made to the South-Sea Company.

And now, Sir, I shall conclude with taking notice of a circumstance relating to the Bank, which ought, I think, to be a prevailing argument for our resolving that the next payment shall be made to that Company. I mean the expiration of their term which now draws pretty near; for upon the first of August 1743, we may, upon giving proper notice, pay off all that shall then remain due to that Company, and so put an end to their subsisting as a corporation, unless they obtain from parliament a renewal of their term, which certainly will not be granted without a very valuable consideration. While the debt due to them continues as large as it is at present, they need be under no uneasiness, were their term to expire to-morrow; because they know the parliament cannot pay them off in two or three years; and while they are under no uneasiness it is certain they will not be so fond of renewing, nor will they offer so large a consideration. For this reason I think it is absolutely necessary to begin now to pay them off; in order that we may have it in our power, at the end of their term, or soon after, to pay off the whole, in case we should then find it necessary to put an end to the corporation, or in case they should refuse to give such a consideration for a renewal as may be then thought just and reasonable.

I hope, Sir, I have now shewn that it is absolutely inconsistent with the public good, and with that impartial justice which is due to all the creditors of the public, to apply the present growing produce of the Sinking-Fund towards paying off any part of the South-Sea Company's capital; and that by applying it towards paying off the annuitants of that Company, we do an injustice to those who are best intitled to our compassion and favour. On the other hand, I think I have shewn, that if we have any regard for the public good, if we have a mind to distribute justice impartially to all our creditors, if we have a mind to shew a regard to the private interest of our creditors, by applying the next payment to those who will suffer the least by its being made to them, we ought to resolve, "That the Sum of one million be granted to his Majesty, towards redeeming the like sum of the increased capital of the governor and company of the Bank of England." Therefore I hope the hon. gentleman will amend his motion by leaving out the words, 'of the South-Sea Company, as is now commonly called old South-Sea Annuities,' and inserting in their stead, these words, 'of the governor and company of the Bank of England.'

To this it was replied in substance as follows:

Sir: As to the power of Parliament over the Sinking-Fund, I must still think it absolute and unlimited, notwithstanding all that has been now or formerly said to the contrary; and I have this advantage, that I have several joint resolutions of all the branches of our legislature in favour of my opinion. I cannot easily imagine the Parliament which established the Sinking-Fund had any intention to limit or restrain the power of all future Parliaments, with respect to the disposition of the produce of that Fund: they knew it was an intention they could not make effectual, and I cannot think the wisdom of the nation would propose or form to themselves an intention which they knew they had no power to make effectual; but this is not the question now before us, and therefore I shall not take up your time with expatiating upon the subject.

If we could immediately redeem the original fund of the Bank, which now bears an interest of 6 per cent, I must acknowledge, Sir, it would be a very good

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argument for our applying this next payment to that Company: nay, it would be a good argument for our borrowing money at 4 per cent. sufficient to pay off their whole capital, in order to come at the redemption of that part of it which bears so high an interest, in case they refused to comply with our terms; but we know we cannot redeem or pay off that original fund, till the expiration of their term, which has six years to run from the 1st of August next; therefore, the high interest upon that part of their capital can be no reason for applying the present growing produce of the Sinking-Fund towards redeeming any part of their fund, which bears the same interest now payable upon almost all the public funds. We have at least 5 years to think of means for reducing the interest payable upon their original fund; and if at the end of that term, it should be thought necessary to abolish that Company, or put an end to their exclusive privilege, it will be then easy, more easy than at present, to find money at 4 per cent. for paying off their whole capital, though not a shilling of it should be paid off before that time; for as the number of lenders upon public securities will be every year increasing by the payments made out of the Sinking-Fund, let them be made to whom they will, it will of course become every year more easy for the public to borrow money at 4 per cent. nay, perhaps, even at 3 per cent. than it can be now, or in any preceding year. On the other hand, if upon the expiration of that term, it should be thought proper to continue the Bank, and to continue them in the possession of their present exclusive privilege, the more capital they are then possessed of, the more able will they be to pay a large consideration to the public, for a new term; and if they should refuse to comply with any reasonable terms that may then be proposed by the public, I am convinced the larger their capital then is, the more easy will it be to find a new company of adventurers ready to accept of the terms offered by the public, and willing to advance money sufficient for paying off and abolishing the old Company; for every one knows, it must always be a great advantage to a Banking Company to have a large capital, and considerable sums of ready money coming in to them weekly from his Majesty's Exchequer.

I confess, Sir, I am a little surprised to hear it insinuated, that it would be more advantageous or convenient for the public, to owe a large debt to any one company, than to owe a debt of equal value to three or four different companies. If the whole debt we now owe were in the hands of any one company, it would be in the power of that company to distress the public whenever they had a mind; whereas, while that debt is in the hands of several companies, if one should resolve to distress, the others would probably resolve to support, and by that means the public can never be in danger of being distressed by either. Likewise while the debt continues to be in the hands of several companies, and while it continues to be a disadvantage to each of them to be paid off, as long as the Sinking Fund produces any thing, it will be in the power of the public to keep every one of them in awe, and in some manner to prescribe to each, by threatening to apply the Sinking Fund solely to that company which shall refuse to comply with any reasonable proposition that may be offered. In private life, as well as public, it is not so convenient to owe a large debt to one person, as to owe a debt of equal value, and at the same interest, to several, provided the debtor can be assured, that none of his creditors will demand payment till he is ready to offer it; for the reason why gentleman of estates generally borrow a large sum from one person, is because a man of estate can borrow a large sum at a lower rate of interest than he can borrow small sums; or because some one or other of his small creditors is every day teazing him for payment, which keeps him in a constant state of uneasiness and trouble; but if a private man owed 10,000*l.* to ten different persons, neither of whom, he was sure, would ever ask payment till he was ready to offer it, he would not surely, in common prudence, offer to borrow 10,000*l.* at the same interest from any one person, in order to pay off these ten different creditors; and if a man had several mortgages upon his estate, and could make partial payments, without irritating his creditor, I believe common prudence would direct him to apply all his partial payments towards diminishing the largest mortgage; because a creditor for a large sum, has it always more in his power to distress his debtor, than a creditor for a small sum can have, unless the debtor be a man who has neither fortune nor credit. I shall grant it is better for the public to owe a large debt to a company, then to a great and disunited multitude of private persons; because to such

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a multitude the public can offer no new terms, nor can it enter into any treaty or transaction with them; whereas a multitude united in a company is always governed by the majority, and is in effect but one person, so that means may always be found for getting them all to agree to any new and reasonable terms that may be offered. This was a good reason for the legislature's enabling the South-Sea company to purchase in, or pay off all our redeemable and irredeemable debts; but this can be no reason for saying, that it would be better to have the whole public debts placed in the hands of one great company, than to have it placed in the hands of three or four different corporations; because the public may treat with each, and will always be able to treat more upon the par with each, than if it had only one powerful and numerous body to deal with.

As for the disadvantage which an exclusive privilege may be of to the trade of the nation in general, it cannot be of any weight in the present debate; because, if at the end of the term granted to the Bank or East-India company, it should be found necessary to abolish the Bank, or not to renew the exclusive privilege of either of the two, it will, I am certain, be in the power of the public to borrow as much money, at a moderate interest, as will be sufficient for redeeming either the one or the other, though not a shilling should be paid to either of them before the expiration of their term; and if it should be thought fit to continue them, and to renew their exclusive privilege, it would be a disadvantage to both, but especially the Bank, even with respect to their trade, to have a great part of their capital paid off; in which case the making of such payments would certainly be an injury done to the trade of the nation. But though in most sorts of trade, an exclusive privilege may be of bad consequence, I am nevertheless of opinion, that with respect to the Banking trade, and the trade to the East-Indies, neither the one nor the other can be carried on with such success, or in such an extensive manner, by private adventurers, as by a public company with such an exclusive privilege as our present companies have; and in this opinion I am supported by the example of our neighbours the Dutch, who, I believe, understand trade as well as most of their neighbours, and, I may say, I hope, without giving any offence, that they generally shew as disinterested a regard for the good of their country, as any nation now in Europe. The circulating of bank bills, or cash notes, must certainly increase the current cash of any country, and must therefore be of great use in trade; consequently the more extensive and the more general such a circulation is, the better will it be for the inland trade of that country. It is true, a private man, or a set of private men, by a long series of good management, gain a very extensive credit, but that credit can never come to be so extensive, or near so general, as the credit of a rich public company, that has supported itself with honour for perhaps some ages; because the credit of a private man always depends upon himself, so that when he dies, his credit, as to any future circulation, generally dies with him; for it must require some time before those who succeed can revive or regain it; whereas a public company never dies, nor can their credit meet with any such interruption; and as their managers are always chosen annually by the company, there is a greater security for its being under good management, than a private bank, whose chief managers are always appointed by the chance of natural or legal succession; therefore I shall always think it better for a trading country to have a public bank, than to trust entirely to private bankers. Then as to the East-India trade, it is certain that trade could not be carried on by private adventurers, unless the nation should be at the expence of supporting the settlements, forts, and factories now supported by the company; and even in that case, the ships proper for the trade are so large and expensive, and the cargoes so rich, that I question much if it could be carried on by private men trading separately. In short, Sir, we know how our banking and East-India trade have prospered under their present regulation, but we cannot certainly judge how they would prosper in the hands of private and separate adventurers; therefore, I must think, it would be a dangerous experiment to dissolve the companies, and I am of opinion neither of them can subsist without such an exclusive privilege as they now enjoy. However, we have now no occasion for determining this question; for as I have said, whatever way it may be determined, when the opportunity offers, it can be of no weight in the present debate; at least if it is of any weight, it must be in favour of the motion; because if we should once pay off any part of the capital of Bank or

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East-India, we cannot replace it, but by contracting a new debt, which I hope we never shall, even though we should afterwards resolve to grant the company a new term.

With respect to the trade carried on by our three great companies, it must be granted, Sir, that the South-Sea Company has hitherto been far from carrying on such a trade as either of the other two; and although I am convinced, a diminution of the capital of the Bank or East India would be a disadvantage to their trade, yet I am far from being of opinion that the diminution of the South-Sea capital would be a disadvantage to any sort of trade they can be supposed to carry on in any time to come; for their capital is so large, that though the greatest part of it were paid off, they would, I think, have sufficient remaining for enabling them to push their trade as far as the nature of it will admit of. But supposing, that by some extraordinary and unforeseen accident it should happen otherwise, supposing the South-Sea Company should become one of the most flourishing trading Companies in the world, (which I should be extremely glad to see) where any present measure is to be taken, I shall always think it much safer to form a judgment upon the experience of what is passed, than upon any conjecture of what may happen in time to come; and if we are now to be directed by the experience of what is past, I am sure it will be very easy to determine which of the three capitals we may diminish without running any risk of injuring the trade of the Company by such diminution.

Then, Sir, with respect to the taxes mortgaged to the several companies, it seems to be admitted that the taxes mortgaged to the South-Sea Company are the most grievous; and if so, it would certainly be much better for the parliament to have an absolute power of abolishing all those taxes, than to have only a conditional power subject to the controul of any company in England; for though it may be probable that their consent will always be readily obtained, by offering them a security upon the Sinking-Fund, for an annuity equal to the yearly produce of the tax so to be abolished, yet the obtaining of such a consent is what we cannot pretend to be infallibly sure of; and therefore I must think it most prudent for us to proceed as fast as possible in the redemption of those taxes which are allowed to be the most burdensome to the nation in general. As for what has been said with regard to the Salt-duty, it can have no relation to the present question, therefore I shall not take much notice of it; but I must declare I am far from thinking it near so burdensome or inconvenient as the honourable gentleman was pleased to represent, nor did I ever think it so grievous as the Land-Tax. There is not a man in the kingdom that feels or complains of what he pays to the Salt-Tax, but most of the land-holders in England severely feel every shilling that is laid upon their land, and most of them would complain if they were not convinced that the parliament takes every opportunity to relieve them. We must remember, that when the Salt-Duty was abolished, there was then no competition in parliament between it and the Land-Tax; if there had, I make no doubt but that both Houses of Parliament would have been of the same opinion they afterwards were, and would then, as well as afterward, have determined that the Land-Tax was by far the most grievous of the two. But however grievous or dangerous the Salt-Duty may be, there can be no occasion for applying the produce of the Sinking-Fund towards its redemption; because in seven or eight years it will of course expire; and if any attempt should hereafter be made for continuing or reviving it, the honourable gentleman may then give his reasons against it, when I am persuaded they will have great weight, as they always have with every man that hears him.

I hope, Sir, I have now shewn that all the arguments which can be drawn from the public good of the nation in general, plead strongly for your applying the next payment towards redeeming so much of the South-Sea Capital, and that there is no weight in any thing that has been said to the contrary. I shall next consider that impartial justice which is due to all our creditors, and the regard we ought to have for the private interest of every one. As for that rule of proportion which has been laid down, and according to which it has been said we ought to make all our future payments, I cannot think it would be either just or impartial, or that it would shew a proper regard for our creditors in general; for as every payment we make must be attended with a loss to those to whom it is made, we ought to make our payments in such a manner as that the loss may always fall upon the greatest number of persons:

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a loss that falls upon 3 or 400 persons may be almost insensible to every one, whereas if the same loss be made to fall upon 100 persons only, it will be severely felt by every one, and may in all probability prove ruinous to a great many. For this reason we ought to make all or most of our payments to that capital which is the largest, till such time as it be reduced upon a par, or near upon par, with some one of the other capitals; consequently the next payment, and perhaps several future payments, ought to be applied to the South-Sea Company, because their capital is by much the largest, and their proprietors by far the most numerous, and therefore the loss cannot fall so heavy upon those to whom the payment is made.

It is true, Sir, there are, I believe, among the South-Sea Annuitants a great many proprietors for small sums, perhaps more in proportion than in any of our other public funds; but such proprietors have all something else to depend on, and therefore are not so much objects of compassion as the honourable gentlemen would represent. They are generally persons concerned in some sort of trade or business, and the small sum of money that will fall to each person's share, out of any payment to be made by the public, will or at least may, be usefully employed by them in the business they are engaged in. The greatest objects of compassion are the proprietors for middling sums, such as have 1,000*l.* two or three, in some one of the public funds, and have no trade or business, nor any thing to depend on for a subsistence, but the annuity or dividends they receive from the Company. By such proprietors the loss will be severely felt, because they can make no use of the money they receive, but by laying it out again upon the purchase of stock or annuities at a very great disadvantage, and many of them may perhaps be tempted to waste it in some sort of extravagance; but of such proprietors there are, I believe, in proportion, as many in our other funds as in the South-Sea Annuities, and therefore the latter deserve no particular favour upon that account. As for foreigners, I shall not take upon me to say which of our public funds are most generally possessed by them; but I am surprized to hear it so much as insinuated that we ought to shew any greater favour to our own subjects than to those foreigners who have put such a confidence in the honour of this nation, as to trust us with the whole or the greatest part of their fortunes: I hope I shall never see any such doctrine established, because I am of opinion it would tend both to the dishonour and discredit of the nation, and might be of the most dangerous consequence, if ever this nation should again be plunged in a war as expensive as the last. I wish it had not been mentioned; but since it has, I think it one of the strongest arguments can be made use of for inducing us to agree to the motion, in order to convince the whole world, that this House will never give the least countenance to such a doctrine. I must now, Sir, beg leave to consider the calculations that have been made for shewing that the South-Sea Annuitants will sustain a greater loss by the next payment's being made to them, than the proprietors of Bank stock would sustain, if the next payment should be applied to them. The calculations I must confess are ingenious enough, but they are all founded upon two suppositions, neither of which, I am afraid will hold. They are all founded upon these two suppositions, that neither the trade of the Bank or East India Company will be in the least diminished by our paying off a part of their capital, and that the remaining stock will rise in its value according to the increase of the future dividends. As to the first of these suppositions, I am convinced it will not hold, especially with respect to the Bank; for by paying a million to them, we shall make them lose near 800*l.* a week, which is now coming in to them weekly from the exchequer, as a supply for the ready specie they find it necessary to keep always by them, in order to circulate the cash notes or Bank bills they have out; therefore, upon the ceasing of that weekly supply, they must either diminish the number of notes they now have in circulation, or they must keep a greater stock of ready specie by them; by either of which they must necessarily diminish the profits of their trade, and consequently this supposition must appear not to be well founded. Then as to the other supposition, I do not think there is the least foundation for it, because we know, the price of any sort of stock depends as much upon the particular whim or humour that may happen to prevail, as the price of any commodity whatever. It neither depends upon the dividend to be made, nor upon the certainty or probability that the dividend will be increased or continued. Of this the present market prices of our stocks is a convincing proof; for if one were to

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judge from common sense, or the reason of things, it is certain the price of Bank stock ought to be higher in proportion to its dividend than the price of any other public fund in England, and yet we find it is lower than either East-India Stock or South Sea Annuities; therefore to suppose that any stock will rise in proportion to the increase of its dividend, must be a very uncertain and deceitful foundation for any calculation. On the contrary, our directing the next payment to be made to the Bank would, I believe, possess the generality of mankind with an opinion, that we were resolved to abolish the company at the end of their term, which would of course run the price of their stock down to very near par, and consequently I think it most reasonable to believe, that the proprietors of Bank Stock would not only lose the rate of 50*l.* per cent. upon their stock annihilated, but very near 50*l.* per cent. upon all their remaining stock, in case we now resolve that the next payment shall be made to them.

For these reasons, Sir, and a great many others, which I shall wave troubling you with at present, I am still of opinion, notwithstanding what has been said by the hon. gentlemen on the other side of the question, that if we have a mind to shew a proper regard to the public good, and to the private interest of our public creditors in general, we ought to apply the present growing Produce of the Sinking-Fund towards redeeming the like sum of the South Sea Company's capital; and that, considering the great amount of that Company's capital, considering how far it exceeds the capital of any other company, neither our having applied so many successive payments towards reducing of that capital, nor our applying this next payment to the same purpose, can be charged with any injustice or partiality: therefore, I am for agreeing to the motion, and, I hope, the House will join with me in opinion.

After this debate, the question was put upon the motion, and carried in the affirmative without a division. The Speakers for the motion were, sir Robert Walpole, Mr. T. Winnington, Mr. John Bance, sir W. Younge, Mr. Alderman Heathcote, and the lord Sundon; and the Speakers against the motion were, sir John Barnard, Mr. W. Pulteney, sir William Windham, sir John Hind Cotton, sir John Rushout, sir Thomas Sanderson, the lord Baltimore, Mr. Samuel Sandys, and the Master of the Rolls.

Debate in the Commons on Sir John Barnard's Scheme for the Reduction of Interest.]* March 14. The above Resolution was reported to the House, and agreed to without any formed debate; but upon that occasion,

Sir *John Barnard*, and some others, spoke to the effect as follows;

Sir; I shall not now oppose our agreeing to the Resolution of the Committee; but the only argument made use of in the Committee in favour of the motion, which to me seemed to have any weight, was, that at the end of the term last granted to the Bank, and which expires in August 1743, it would be easy for the government to raise money at 4 per cent. sufficient to pay them off, in case it should be thought fit to abolish the company, or put an end to their exclusive privilege; or in case the present Company should refuse the terms offered for renewing their exclusive privilege. I confess, Sir, this argument had very little weight with me; because, in my opinion, it will be impossible for the government to raise 10,000,000*l.* sterling at once, at 4 per cent. or any other interest, especially when we have such a powerful and rich company to oppose it, as the present Bank is, who, by the indulgence that has been of late years shewed them, are in some measure become masters of the public credit of the nation, and who will certainly oppose, with all their might, a scheme concerted for the ruin of their company, and for making every particular man in it lose at least 50*l.* per cent. of what he may then call himself worth: This, I say, appears to me impossible; and if we judge from the experience of past times, I am sure we must conclude it will be impossible; but such seems to be the fatality of some gentlemen, that when the experience of what's past ought to per-

* "On the 14th of March the Resolution was reported and agreed to. On this occasion, sir John Barnard proposed that the House should resolve itself into a committee, to take into consideration the National Debt, and to receive any Proposal which might be made to reduce the interest to 3 per cent. The minister, after a few observations on the danger of meddling with public credit, or taking any step which might be likely to affect it, without the most mature reflection, declared that he had no objection to a committee, because time would be allowed for deliberation; and concluded, that if any reasonable scheme for reducing the interest should be then proposed, he should readily agree to it." Coxe's Walpole.

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suade us to take any particular measure for the public good, they then judge from very improbable conjectures of what may happen in time to come, and when probable conjecture of what may happen ought to prevail with us to take any particular measure for the public good, they then determine themselves by the experience of past times, though the circumstances are very far from being the same.

This, Sir, is the very case, with respect to their method of judging about the future price of Bank stock. 'Tis true, while a spirit of Stock-jobbing prevailed in this kingdom, while that spirit was encouraged by those who ought to have behaved in a quite different manner, the price of stock very much depended upon what was called the whim or humour of Change-Alley, which was never governed by reason, but by art and fraudulent practices; but since that spirit has subsided, and the chief method of keeping it up has been abolished by act of parliament,* people now begin to judge reasonably, and, therefore, the price of stock now depends very much upon the dividend made, and the probability that the same dividend will be continued, or perhaps increased. For this very reason Bank stock does now sell, and ought to sell, at a lower price in proportion than South-Sea Annuities; because people know that the Bank's term is near expiring, that a large sum of money must soon be paid for a renewal, and that that sum must be taken from the capitals they have or may have in Bank stock, or from the future dividends they may expect from such capitals. This I was aware of when I made my calculation; and, therefore, I founded it upon the present low price of Bank stock, and not upon that price it ought to bear in proportion to South-Sea Annuities; and by our doing justice to the other public creditors, no man can be induced to believe we will do injustice to the Bank, by paying them off sooner than any of the other public creditors; for if the Bank be willing to pay a just price for the continuance of their Company, and if that continuance be no detriment to the public, it would be unjust to make any more than proportional payments to them; so that by our resolving that the next payment should be made to the Bank, the proprietors could take no alarm, unless they either think that the continuance of their privilege would be a detriment to the public, or are resolved not to pay a proper consideration for it; in either of which cases it would be a just alarm, an alarm we ought not to prevent; because it would be better the loss should fall upon them by degrees, than that it should fall all at once, as in either of these cases it must do at the end of their present term. As to the profits the Bank makes, or may make by its trade, I shall only take notice, that the quantity of ready specie they are obliged to keep by them, depends but very little on the value of notes they have out, but upon the extent of their credit, and the circumstances of public affairs at the time: a bank newly set up, or of a very small capital, must keep a greater quantity of specie by them in proportion to the notes they have out, than a Bank of established credit or of a larger capital than their trade can possibly require, which is the case of our present Bank; and when public affairs are in a variable and unsettled condition, every Bank ought to keep a greater quantity of specie by them in proportion to the notes they have in circulation, than when the sky is clear and every thing appears serene: therefore the paying them off a million, I am convinced, would neither diminish their circulation, nor oblige them to keep a greater quantity of specie by them, than they do at present, and consequently could no way diminish their trade.

Thus, Sir, I could shew there is no weight in any one argument that has been made use of for preventing our making the next payment to the Bank; but this I did not rise up for, nor should I have taken any notice of the chief argument made use of, but that I think, if there be any thing at all in the argument, it must be of great weight with respect to what I am to propose; and, therefore, I hope I shall have the concurrence of all those who thought it a good argument, and particularly of the hon. gentleman who made use of it. Sir, if we are now in such circumstances as that we may any way expect in 6 years time to be able to raise 10,000,000*l.* at once, and that in spite of the most opulent Company in England, I am sure we may now begin to think of reducing the interest payable to the public creditors, and may begin to take some measures for that purpose. I wish some such proposition had come from the other side of the House; for some gentlemen seem to be resolved not to approve of any proposition or scheme

* For the Debate in both Houses on the Bill to prevent the infamous practice of Stock-Jobbing, see vol. ix, pp. 49 and 514.

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but what comes from themselves, and, to return the compliment, their reasons are so weighty, that they generally prevail. As for my own part, if my reasons have any weight with those that hear me, I am sure I have but seldom been heard by the majority of this House, ever since I had the honour to sit in Parliament, and yet I have always raised my voice as much as I could. This has always made me shy of making any proposition to the House, or of offering any scheme, which I thought might tend to the good of my country; but the pleasing prospect the hon. gentlemen have given us of the flourishing and happy state of our country 6 years hence, emboldens me now to make you a proposition, because from what they have said, I cannot but expect their concurrence, and from thence I have good reason to expect success.

Though my hopes are not quite so sanguine, though I am of opinion we can never be in such circumstances as to be able to raise 10,000,000*l.* at once, in spite of the Bank, yet, Sir, I am convinced, it is now high time for us to think of reducing the interest payable to our public creditors; and my reason for thinking so is neither founded upon past experience, nor upon future conjecture, but upon our present circumstances: I mean, Sir, the present high price of all our public funds, and in particular the high price of our public securities, which bear an interest only of three per cent. When such securities are at five or six per cent. above par, it is a certain proof that the natural interest of money, upon public securities at least, is below 4 per cent. that many of the public creditors would be glad to accept of an interest of 3 per cent. rather than be paid off, and that the government might borrow some money, I shall not pretend now to ascertain the sum, at 3 per cent. in order to pay off a part of those public creditors, who should not appear willing to accept of so low an interest.

I say, Sir, I shall not now pretend to determine what sum we might be able to borrow at 3 per cent. I believe it would be but small, because, I believe, the Bank would refuse to concur with the government in any such undertaking, and will always refuse as long as the interest payable to them is at 4 per cent. For this reason, among others, I was for our resolving that the next payment should be made to the Bank; because such a resolution would have enabled us to bring the interest payable upon the whole Bank capital down to 3 per cent. in two or three years. If we had ordered a million to be paid to them at Michaelmas next, we might, without doing an injustice, have ordered that no part of that payment should have been applied towards such of the proprietors of the Bank as were willing to accept of an interest of 3 per cent. upon that part of the capital which belonged to them; but that the whole should have been applied towards diminishing the capital of those who were not willing to accept of such an interest; and for this purpose the government might have been impowered to open books of subscription for the Bank proprietors to come in and subscribe for that part of the capital which belonged to each of them: and further, as an encouragement for the proprietors of the Bank to come in and subscribe, it might have been ordered that no future payment should have been applied towards paying off any part of the capital so subscribed, as long as there had been any part of the Bank capital unsubscribed. By this means, I do not know but we might, even at Michaelmas next, have brought the whole capital of the Bank, at least all that part of it which can be paid off before the end of their term, down to 3 per cent. In which case, as no money could then have been issued from the Sinking-Fund at Michaelmas next, we would have had above two millions to have disposed of next session of Parliament; and with above two millions in ready money, and what we might then have borrowed, with the assistance of the Bank, at 3 per cent. I do not know but it would have been in our power, to have brought the whole public debt to 3 per cent. at the very next Michaelmas following; for if the interest payable to the Bank should once be reduced to 3 per cent. it is certain they would then assist us as much as they could, to bring all our other debts down to the same rate of interest; and though I am far from thinking we shall in five or six years be able to borrow 10,000,000*l.* at once, even at 4 per cent. in spite of the Bank, yet I am convinced that at present, with their assistance, we might be able to borrow eight or ten millions at once at 3 per cent. especially if the proprietors of our funds were enabled to subscribe their respective capitals, with an assurance that no part of the capital so subscribed should be paid off for a certain term of years.

This proposition, Sir, would certainly have had the greatest and the most useful

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effect, if upon these terms the next payment had been ordered to be made to the Bank; but even suppose we should agree with our committee, suppose we should resolve that a million be granted to his Majesty, towards redeeming the like sum of the increased capital of the South-Sea company, as is now commonly called Old South Sea Annuities, the same proposition may, I think, be applied to them, and may have a very good effect, at least I am sure it can be attended with no bad consequence; for as the delaying to pay off any part of our public debts is now a favour, it is both just and reasonable that favour should be bestowed upon those who are willing to accept of an interest of 3 per cent. instead of 4. Therefore my proposition now is, that in order to see which or how many of the old South-Sea annuitants are willing to accept of 3 per cent. for a certain term of years, rather than be paid off any part of their present capital, the government, or the commissioners of the treasury, should be impowered to open books of subscription for such of the old South-Sea annuitants as are willing to accept of an interest of 3 per cent., for 14 years certain, rather than be paid off any part of their present capital at Michaelmas next, or at any other time during that term; and that it should be ordered, that no part of the million to be paid at Michaelmas next shall be applied towards paying off any part of the capital so subscribed, but that the whole shall be divided and applied *pro rata* towards diminishing the capital of such of the old South-Sea annuitants as shall not subscribe before Michaelmas next. If all the old South-Sea annuitants should subscribe, the consequence will be, that no part of the million can then be issued from the Sinking-Fund at Michaelmas next; in which case we shall have two millions to dispose of in next session of parliament, and with these two millions, we may, I am confident, be able to reduce the capital of the Bank likewise to 3 per cent. at the very next Michaelmas following; after which we shall have no difficulty to reduce the new South-Sea Annuities and all our other public funds to the same rate of interest.

As a resolution seems now to be formed, that none of our other creditors shall have a shilling paid to them, till all the South-Sea Annuities be paid off, I shall shew that it is no very unreasonable supposition to suppose, that all the old South-Sea annuitants would subscribe before Michaelmas next; for which purpose I shall suppose Old and New South-Sea Annuities to amount to 25,000,000*l.* and that neither of them will ever sell for any price above or under 113*l.* per cent. In this case, if a million should be paid to them yearly, it will amount to 4 per cent. the first year; so that every one of the proprietors will have 4 per cent. of his capital annihilated, which, at 113*l.* per cent. is worth about 4*l.* 10*s.* 5*d.* and therefore, as he receives only 4*l.* in money, he must lose, the very first year, 10*s.* 5*d.* which loss, by the yearly diminution of the capital, and the yearly increase of the Sinking-Fund, will increase every year so fast, that in five or six years, I reckon, every proprietor will lose 1 per cent. upon the capital he is possessed of, by every payment made by the public; for which reason every proprietor of South-Sea Annuities, if he understands his own interest, would certainly chuse to accept of 3 per cent. for 14 years certain, rather than remain subject to the annihilation of so much of his capital yearly, and the trouble of receiving such partial payments, and of replacing those payments some way at interest, or investing them in some sort of trade or business.

I have made the calculation, Sir, upon Old and New South-Sea Annuities taken together, for the sake of ease and perspicuity; but it will come out the same, if we make the calculation upon the two, separately; and, therefore, I think there is a great probability in supposing that all the Old South-Sea Annuitants will become subscribers for accepting 3 per cent. upon their capital, for 14 years certain, before Michaelmas next, if we give them an opportunity of so doing; because, if any number of them should subscribe, the loss will fall extremely heavy upon those who do not, which will of course be a prevailing argument with the most obstinate. But suppose no one of them does come in to subscribe, it can be attended with no bad consequence; the government will then have nothing to do but to issue the million at Michaelmas next, and it will be distributed *pro rata* among the Old South-Sea Annuities, according to the direction of parliament.

Before I conclude, Sir, I must take notice, that we ought to endeavour, as much as possible, to reduce the rate of Interest, especially upon the debt due to the Bank, before we come to any agreement about granting them a new term; for if we do not, the reduction of their interest to 3

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per cent. will be looked on, perhaps, as a full consideration for that new term; whereas if it should be reduced before that time, the consideration must be paid wholly in ready money, which will enable us to pay off any debts that may be still standing out at 4 per cent.

Thus, Sir, I have laid before you a Proposition, which, I am sure, may tend greatly to the benefit of the public, and can be attended with no bad consequence, nor with the least danger of any bad consequence; yet, nevertheless, I should not, I believe, have had the courage to offer it, if the great hopes given us by some honourable gentlemen in the committee, of our being able to do wonders 5 or 6 years hence, had not made me imagine, that I should certainly have their concurrence. Whether we can now properly take this affair into consideration, I do not know; but if it should be thought we cannot, I think we ought to resolve ourselves into a committee of the whole House, to consider of the national debt, or into some such committee, in order to take this or any other proposition of the same nature that may then be offered into our consideration; for surely we ought not to sit here and see 3 per cent. securities selling at a premium, without endeavouring to take some advantage of that favourable conjuncture, for lowering the interest of these national debts which now bear an interest of 4 per cent.

Upon this it was said by sir *Robert Walpole*, and some others, That public credit was a thing of such a ticklish nature, it was dangerous to meddle with it at any rate, but much more, to make any step which might affect it, without the most mature consideration: that in a very few years we might, perhaps, be able to reduce the whole, or the greatest part of the public debts to an interest of 3 per cent. but they were afraid it was not yet time to make any such attempt: that to make any such attempt without success, would certainly be attended with bad consequences; for as public credit depended intirely upon the opinion of the generality of mankind, a vain and unsuccessful attempt to reduce the interest payable upon any of our public funds, would be attended at least with this bad consequence, that it would give many people a mean opinion of the wisdom and prudence of the government; and no man would trust, or continue to trust his fortune in the hands of those whose wisdom and prudence he had no good opinion of; so that the attempting to reduce the interest might give a much greater check to public credit than some gentlemen seemed to be aware of, and might put it out of their power to reduce the interest payable upon any of the public funds, for a much longer time than it would have been, if no such unseasonable attempt had been made. However, they said they were not against going into such a Committee as had been proposed; because gentlemen would then have time to consider of what they were about; and if any feasible Scheme should be there proposed for reducing the Interest now payable upon any of the public funds, they should most readily agree to it.

Whereupon, the Resolution of the Committee of Supply was agreed to without a division; and then it was resolved, That the House would, upon that day se'nnight, resolve itself into a committee of the whole House to consider of the National Debt. After which it was ordered, that a State of the National Debt, as it was the 1st of February last, be laid before the House. Which was accordingly done on the 18th, and is as follows:

A State of the NATIONAL DEBT, *as it was the 1st day of February*, 1737.

Exchequer.

	£.	s.	d.
Annuities for long Terms; being the Remainder of the original Sum contributed, and unsubscribed to the South-Sea Company	1,836,275	17	10¼
Annuities for Lives, with benefit of survivorship; being the original Sum contributed - - - -	108,100	0	0
Annuities for Two and Three Lives; being the Sum remaining, after deducting what is fallen in by Deaths - - - - -	125,549	8	0¼
Annuities at 9*l.* per cent. per annum; being the Remainder of the original Sum unsubscribed to the South-Sea Company - - - - - -	161,108	6	8
Annuities on Lottery, 1710; being the Remainder of the original Sum unsubscribed to the South-Sea Company - - - -	109,290	0	0
Annuities on the Plate-Act, 6 Geo. 1, at 4*l.* per cent. per ann. - - - - - -	312,000	0	0
Annuities on Nevis and St. Christopher's Deben-			

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tures, at 3*l.* per cent. per ann. - - - - - -	37,821	5	1¼
Annuities, at 3*l.* 10*s.* per cent. anno 1731 - - -	400,000	0	0
Exchequer-Bills on the Victuallers Act, anno 1726, at 3*l.* per cent per ann. - - - - - -	481,400	0	0
Ditto, made out for interest on Old Bills exchanged	2,200	0	0
Duties on Salt continued, anno 1734, at 4*l.* per cent. per ann. - - - - -	780,000	0	0
Ditto, anno 1735, at ditto	500,000	0	0
Annuities, anno 1736 at 3*l.* per cent. per annum, charged on the Sinking-Fund - - - - - -	600,000	0	0
Note, The Land-Taxes and Duties on Malt, being annual Grants, are not charged in this Account, nor the 1,000,000*l.* charged on the deductions of 6*d.* per Pound.			
East-India Company.			
By Two Acts of Parliament 9 Will. 3, and Two other Acts 6 et 10 Annæ, the Annuity granted by the said Acts was, by an Act 3 Geo. 2, reduced from 5*l.* per cent. per annum - - - - -	3,200,000	0	0
Bank of England.			
On their original Fund, at 6*l.* per cent. per annum	1,600,000	0	0
For Exchequer-Bills cancelled, anno 3 Geo. 1, at 4*l.* per cent. per annum	1,500,000	0	0
Purchased of the South-Sea Company, at ditto	4,000,000	0	0
Annuities charged on the Duties on Coals, since Lady-day 1719, at ditto	1,750,000	0	0
Ditto, on the Surplus of the Funds for Lottery 1714, at ditto - - -	1,250,000	0	0
Annuities for the Lottery 1731, at 3*l.* per cent. transferrable at the Bank	800,000	0	0
South-Sea Company.			
On their capital Stock, and Annuities, per Act 9 Geo. 1, at 4*l.* per cent per annum - - - - -	28,302,203	5	6½
£.	47,855,948	3	3¼

March 21. The House having resolved itself into a Committee of the whole House, to consider of the National Debt; and the above State of the National Debt having been referred to the said Committee, as soon as sir Charles Turner had taken the chair,

Sir *John Barnard* stood up and made a motion, for enabling his Majesty to raise money either by the sale of Annuities for years or lives, at such rates as should be prescribed, or by borrowing at an interest not exceeding 3 per cent. to be applied towards redeeming of the Old and New South-Sea Annuities; and that such of the said Annuitants as should be inclined to subscribe their respective annuities, should be preferred to all others.*

* "March 21. The House resolved into a committee of supply, and sir John Barnard brought forward his Scheme. It was called, "A Proposal towards lowering the Interest of all the Redeemable Debts to 3 per cent. and thereby to enable the parliament to give immediate ease to his Majesty's subjects, by taking off some of the taxes which are most burthensome to the poor, and especially to the manufacturers, as likewise to give ease to the people, by lessening the annual taxes for the current service of the year," and was as follows: "That an offer be made to the proprietors of the South Sea Annuities, as well old as new, at such times as the respective transfer books shall be shut, in the following manner; viz. That all persons be at liberty to make their option for the whole, or any part of their capital of one or more of the particulars undermentioned, for which books be laid open at the South Sea house, for so long time as shall be thought proper; viz. All who desire to be paid their money, to enter their names and sums in one book. Those who shall chuse to have annuities for certain terms of years, and the capital to be annihilated, may subscribe in particular books for that purpose, at the following rates:

"For 47 Years at 4 per Cent. per Ann.
31 Years at 5
23½ Years at 6
19 Years at 7
16 Years at 8
13¾ Years at 9
12 Years at 10

"That the proprietors of so much of the capital, as shall not be claimed in money, nor subscribed into some of the Annuities for terms of years, shall, for the future, be intitled to an annuity of 3 per cent. per annum only. And for the encouragement of the annuitants to accept of 3 per cent. per annum, it is proposed, that they be not subject to redemption or diminution of their annuities for the term of 14 years. And that all the Annuities for terms of years be transferable at the South Sea house, without any charge; as well as the Annuities which shall be continued at 3 per cent. per annum. And that all the Annuities for terms of years, commence from the determination of the Annuities of 4 per cent. without any loss of

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Upon this motion there were long debates, so that the Committee did not come to any Resolution that day; therefore, it was resolved, That the House would, upon that day sen'night, resolve itself into a committee of the whole House, to consider further of the National Debt; and it having been much insisted on, in this debate, that there was a great part of the South-Sea Old and New Annuities in the hands of widows and orphans, and persons who were proprietors for very small sums, therefore, next day, it was ordered, That an account be laid before the House, of the quantity of Old and New South-Sea Annuity Stock, and the number of annuitants who were intitled to any such stock, not exceeding 1000*l.* to each annuitant; and also, an Account of the quantity of Old and New South-Sea Annuity Stock, holden by any executors, administrators, and trustees, and the number of such trusts. Which Accounts were presented to the House on the Friday following; and on March 28, The order of the day being read, and these Accounts referred to the Committee, the House resolved itself again into the said Committee, when the debate upon the aforesaid motion was resumed; in which

Sir *John Barnard* spoke in substance as follows;

Sir; As some things I mentioned in the committee of supply, gave rise to the House's resolving itself into this Committee, I think it incumbent upon me to rise up, in order to explain and enforce what I then mentioned but superficially, and to make you such a Proposition as I think may at this juncture be made effectual, for reducing the Interest payable upon a part of the National Debts, and for easing the people of a part of that heavy load of taxes they now groan under. In the Committee of Supply I mentioned only the application of the million, to be paid at Michaelmas next, to such of the South-Sea Old Annuitants only, as are not willing to accept of an interest of 3 per cent. for if there are any who are willing to accept of such an interest, and I am convinced there are a great many, I must think it a very absurd sort of conduct in the public, to make any payment to them, as long as there is any one public creditor who will not accept of such a low interest: however, as this House seems to be of a contrary opinion, I shall readily submit; but as the House then resolved upon the Committee we are now in, I thought myself obliged as a member of this House, and as one who sincerely desires to see the nation freed from its debt, and the people freed from their perpetual taxes, I mean such as are made perpetual by Parliament: I say, I thought myself obliged to turn my thoughts that way; and from considering our present circumstances, and the present low rate of interest, I am of opinion, that the scheme for reducing the interest of the public debts may be pushed further than I then proposed or thought on.

Every one knows, Sir, that the price of all our public funds is now at a higher rate than ever it was before, upon any reasonable foundation. Every one knows, that even those public securities, which bear an interest of three per cent. only, now sell at a premium in 'Change Alley; and I must be of opinion, it would be an unpardonable neglect in us, not to endeavour to take advantage of that happy circumstance, for the benefit of the public. I am persuaded there are few or none, who are willing to give a premium for any three per cent. security, but would willingly lend his money to the government at the same interest, if books of subscription were opened for that purpose, with an assurance that no part of his principal should

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time. It is apprehended, that this offer will be more beneficial to the proprietors than the remaining in their present situation, and receiving a million at a time, to be divided alternately between the old and the new annuitants, which must affect them in a very high manner, as it tends greatly to reduce their capital, by continual laying out the money paid off in new Annuities at advanced prices.

"If the parliament should be willing to indulge any persons, not being foreigners, who may be advanced in years, with Annuities for term of life; the following rates are submitted to the consideration of gentlemen who have turned their thoughts to this subject; viz.

	per Cent. for Life.
To persons 44 Years old, or upwards,	7
53 - - - -	8
59 - - - -	9
63 - - - -	10

"If these rates for lives, or any other rates, should be thought convenient to be offered; it is then proposed, that the old and new annuitants be permitted to subscribe any part of their capital, they being within the limitation of years above expressed; and that none of the proposals foregoing be made for ready money; because it is reasonable that the present creditors should have the preference in any advantageous offer made by the parliament, as this is apprehended to be, since money may be raised at 3 per cent. per annum, with a liberty of redeeming the same at pleasure." Coxe.

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he paid off for fourteen years: and therefore, I think, we ought to have such books always lying open at the Exchequer, or some other convenient place, for taking in the subscriptions of those who are willing to lend at three per cent. in order to pay off the sooner such of the public creditors as are not willing to accept of a lower interest than four. If this were done it would convince all our public creditors, who are now entitled to an interest of four per cent. that the government is in earnest, and firmly resolved to pay them off as soon as possible; and as the only contest among the public creditors now is, which of them shall be the last in being paid off, it is more than probable, the far greatest part of them would come in and subscribe what is due to them respectively, at an interest of three per cent. rather than run the risk of being quickly paid off the whole, or the greatest part of their capital, by means of the Sinking-Fund, and the money subscriptions at three per cent.

That the rate of interest upon public securities has always had, and always will have, a great influence upon the rate of interest between man and man, is what, I believe, Sir, no gentleman will question; for as upon public securities a man is always sure of having his interest regularly paid, and may have his principal whenever he has a mind, which are two advantages he can never be assured of, in lending upon the most undoubted private security, it is certain the natural rate of interest upon public securities will always be lower than the natural rate of interest upon private; therefore the only method of reducing the latter is, to reduce the former; and when you have reduced both, then, and not till then, you may safely venture to reduce the legal. And that a low rate of interest upon private securities, is of great advantage to every nation where it can be brought about, is what can be as little questioned by those who any regard to experience, or to the nature of things. But as this depends upon speculations, and upon facts which some gentlemen may not perhaps be acquainted with, I shall beg leave to enlarge a little upon the subject.

It is certain, Sir, the strength and power of a nation can be increased only by multiplying its inhabitants, increasing its trade, or improving its lands; for extent of territory weakens, instead of strengthening a nation, if that territory lies desert and thinly inhabited; because the greater frontier a nation has to defend, the more they will be exposed to insults and incursions, unless every part of the frontier be so well stocked with people, that they are able to defend themselves against any sudden invasion; and the frontiers of every country will always be worst stocked with people; for mankind always retire from danger, if they can; which is the reason for the heart or middle part of every country's being generally the most populous. As to the multiplying or increasing the number of inhabitants in any country, it must always proceed from the increase of its trade, or the improvement of its land; for let the people be as prolific as possible, let them be as prolific as ever the northern parts of Europe, or of this very island, have appeared to have been, if they cannot find employment and subsistence at home, they will wander abroad either in armed bodies, or as single adventurers, to seek for that in foreign countries, which they cannot find in their own. It is therefore highly requisite for every nation to take every possible method for increasing its trade, and improving its land; and nothing can tend more to either of these purposes, than a low rate of interest for the use of or forbearance of the payment of money beween man and man.

With respect to trade, Sir, it is either foreign or domestic, and both depend in a great measure upon the low rate of interest; for mankind naturally pursue that which is their greatest advantage, and but few men will be either frugal, diligent, or industrious, if they can live otherwise; therefore, if a man can live indolently upon the interest of his money, he will generally follow no trade or employment; and if he can make more of his money by lending it at interest, than he can make by employing it in trade or the improvement of land, he will always chuse the former. For this reason the people of a country, where the rate of interest is high, will never carry on any trade for so small a profit, as the people of a country will do where the interest of money is low; nor will the persons engaged in trade ever be so numerous or so rich in the former, as in the latter. Suppose in this country, a man may make five or four per cent of his money, by lending it at interest upon a certain security; we cannot, in that case, suppose that any man will take the trouble of carrying on any trade, by which he cannot make eight or ten per cent profit. Whereas in Holland, where a man can

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never get more than three and often not above two per cent. by lending his money at interest upon a certain security, we must suppose that in that country, a man will be glad to engage in any trade by which he can make six or four per cent. profit; and an additional advantage is, that in Holland a man who has but 1,000*l.* or 2,000*l.* capital must necessarily engage in trade, because he cannot live upon the legal interest of his money; whereas a man of that capital in this country, may live comfortably in most corners of the kingdom upon the legal interest of his money; so that more men, and men of greater stocks, are necessarily drove into trade in that country than in this; and their people will willingly engage in a great many branches of traffic, which no man in this kingdom will touch at; because he can make as much, or very near as much, by employing his money in our funds, as he could expect to make by that traffic.

This, Sir, gives the Dutch and the French too a great advantage over this nation, in all branches of trade which must be carried on at a small profit, such as the Carrying Trade, and the Fishing Trade, but especially the last, which I hope some gentlemen who hear me will take particular notice of; and I shall add this other observation, That in those two trades there are more ships, and more seamen employed in proportion, than in any other; and the seamen thus employed are more useful for the defence of their country, because they are always at hand upon any sudden emergency; which I hope every gentleman will take particular notice of, who has any regard to the naval power, or the security of his country.

All the branches of foreign trade, Sir, which any nation does or can carry on, must consist either in the Carrying Trade, the Fishing Trade, or the exporting their manufactures and produce to foreign markets, and importing those foreign commodities which they have use for at home. In the first two we are under such a disadvantage, by the high rate of interest among us, and the small profit to be expected by the trade, that few or none of our people will engage in either; and in fact we have but very little of either, and would have none at all, if it were not for the many natural advantages we are blessed with above any other country upon the face of the globe. And as to our trade of importing and exporting our own commodities, and such foreign commodities as we have use for, it depends upon the cheapness of our navigation, and proper laws for its encouragement. As to the cheapness of our navigation, it will always depend upon our people's employing their money in that way at a small profit; so that in this too, our neighbours have a great advantage over us; for they will be glad to employ their money in that way, if they can make but 6 or 4 per cent. profit; whereas we cannot suppose any of our people (except such as venture, or as they call it, throw away a little money for the service of a friend, will employ their money in that way, at a profit less than 8 or 10 per cent. so that both ship-building, ships and freight, would be cheaper in our neighbouring countries than in this, by at least 4 per cent. if it were not for some natural advantages we are likewise blessed with in this particular, and the great supply we now receive from our colony of New England; but, notwithstanding all these natural advantages, 4 per cent. difference is such a great advantage in favour of some of our neighbours, that if it were not for the navigation act, and other laws in favour of our own shipping, I am convinced we should see our ports every day full of Dutch ships and seamen; and even as it is, we may observe that the number of Hamburgh, Harborough, Danish and Swedish ships, is every day increasing in the river Thames; and for what I know, in several other ports of the kingdom.

But, Sir, I need not insist so much upon the prejudice a high rate of interest does to our navigation, with respect to our importation and exportation; for if our present rate of interest, and our present taxes continue for some years longer, I am afraid we shall have very little either of manufactures, or home produce, to export; and in that case our importation must likewise decrease in proportion; because we shall not then be able to give either money, or other valuable consideration in return. With respect to our home manufactures, it is certain the exportation of them can proceed from nothing but our merchants being able to sell them cheaper, or at least as cheap in foreign markets, as any foreign manufactures of the same kind and goodness can be sold. Let us then see how the difference of interest may affect this branch of trade. An Englishman will not invest his money in the carrying on of any manufacture, unless he can make 8 or 10 per cent. profit; a Dutch or

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a Frenchman will gladly invest his money in the carrying on of a manufacture, if he can make 4 or 6 per cent. profit; therefore, supposing all other charges equal, a Dutchman or Frenchman will sell his manufactures to the merchant exporter 4 per cent cheaper than the Englishman will do. Here is an overload of 4 per cent. upon our manufactures at every foreign market. Again, an English merchant will not employ his money in the exportation and sale of our manufactures, unless he can make 8 or 10 per cent. of his money; a Dutch or a French merchant will employ his money in the exportation and sale of the manufactures of his country, if he can thereby make but 4 or 6 per cent. of his money: here is an additional overload of 4 per cent. upon our manufactures at every foreign market; so that all the manufactures of this kingdom, by means of the high rate of interest, carry with them to every foreign market, a load of 8 per cent. per annum, more than the Dutch or French manufactures carry with them to the same market, without mentioning the difference of freight, and several other additional overloads, that naturally arise from the high interest of money in this kingdom, above what it is among our neighbours and rivals.

This single advantage, Sir, is of itself sufficient to exclude our manufactures from every market in the world, where our rivals can come in competition with us; but if we consider, what a heavy load is added to the prime cost of all our manufactures, by the taxes laid upon several materials necessary for working them up, and by those taxes which are laid upon many of the necessaries of life, we may have some reason to be surprized there is at this day a shilling's worth of any sort of manufacture exported from Great Britain; for that we still do export great quantities of manufacture, is certain; and because this may be an argument with some for concluding there is nothing in what I have said, I must beg leave to consider some of the natural or acquired advantages we still enjoy.

Before the peace of Utrecht, we had no rival in the woollen manufacture trade but the Dutch, and over them we have many natural advantages both as to our situation, the goodness of our ports, and the principal constituent materials of that manufacture, all of which they are obliged to furnish themselves with at second hand. To this I shall add, that when the woollen manufacture was first chiefly established in England, which was in the long and happy reign of queen Elizabeth, the interest of money was pretty much the same in both countries, and the Dutch were engaged in a bloody and dangerous war, and in establishing their commonwealth and their East-India trade, so that their people had not much time to think of improving any sort of manufacture. By these means we got ourselves riveted in the possession of all the principal markets for woollen manufacture both in Asia and Europe; and that possession we have in good measure kept, till the beginning of the last war with France and Spain, when we were so wise as to prohibit trade with both. During that long period, the people in Turkey, Spain, Portugal, and even in France too, till the Revolution, became so accustomed to the wearing of English cloths and stuffs, that it was not easy to make them change their merchant; for a long established custom in any country, especially in Turkey, Spain, and Portugal, is not easily altered, nor are people apt to go to a new shop, as long as they meet with tolerable usage at the old. Thus by getting possession of the trade, and keeping that possession for so long a time, we acquired an advantage, which could not easily nor speedily be taken from us; and this acquired advantage is, I am afraid, the chief support of our present exportation: but in a long course of time we may entirely lose this advantage; and we are in the more danger, because we have now got a rival in the woollen manufacture trade, much more formidable than the Dutch, and of much more dangerous consequence.

Before our late happy Revolution, Sir, they had but few manufactures of woollen cloth in France, and such as they had were of the coarsest sort; so that they were furnished with all their fine cloths either from Holland or England; but after the Revolution we found ourselves, it seems, under a necessity of prohibiting all manner of trade and intercourse with that kingdom. This prevented its being in their power to have any woollen manufacture directly from England, which laid them under a necessity, and at the same time furnished them with the means, of improving what they had of their own; so that before the second war broke out, they had come some length in the manufacture of woollen cloths, especially stuffs or camblets; and by our prohibiting trade with Spain as well as

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them at the beginning of that war, we furnished them not only with a new opportunity of improving their woollen manufacture, but likewise with an opportunity of introducing it, by degrees, into the kingdom of Spain: and the peace of Utrecht confirmed their manufacture in the advantage it had reaped by the war.

Ever since that time, Sir, they have enjoyed almost an uninterrupted state of tranquillity; during which time, it must be confessed, they have made the best use of the benefits we bestowed upon them; for they have now brought their woollen manufacture to such perfection that they make superfine woollen cloths almost as fine and as good as we can do, and sell them much cheaper; by which means, they very much interfere with us in Turkey as well as Spain; in both which places they as yet meet with some difficulty by reason of the attachment the people in general have to the manufactures of this kingdom; but that attachment will at last wear off, and then it will be out of our power to preserve any share of the trade, unless we can sell all sorts of woollen manufactures as cheap as the French, or any other nation can possibly do.

Now, Sir, with respect to the rivalship in this trade between the French and us, it is very different from that between us and the Dutch. The situation of the French is rather more convenient for that trade than ours, and their ports are as good; then as to the materials, the only advantage we have over them, consists in our wool; but they lie so convenient for stealing it away from us, that it is hardly possible to prevent it; and as to Spanish wool, which is the chief material in the manufacture of all superfine cloths, they lie more conveniently for having it, and may have it at a cheaper rate than we can. From all which I must conclude, the chief advantage we now enjoy in this manufacture, is the superior skill, dexterity, and numbers of our workmen, and the old attachment to the woollen manufactures of this kingdom, something of which still remains in Turkey, Spain, and Portugal but the latter will wear off by degrees, if we cannot sell as cheap as any other nation, and the French workmen will be every day improving and increasing. These, Sir, are our circumstances with respect to the woollen manufacture, which is our chief staple; and in such circumstances I am sure every gentleman that hears me, must conclude, it is high time for us to look about us, and to neglect no opportunity that may tend towards enabling, and in some manner obliging, our merchants and manufactures to sell their goods as cheap as such goods can be sold by any foreign nation whatsoever.

Thus, Sir, I have shewn what bad effects our present high Rate of Interest may have upon our foreign trade, and our home manufactures; and now let me shew the advantages a nation may reap from a low rate of interest with respect to the improvement of their lands, and maintaining a great number of inhabitants. For this purpose, let me observe, that the riches of a nation properly consist in the aggregate total of every man's riches in particular; for a nation, where the subjects are all or generally rich will be able to maintain an expensive war, much longer than a nation can do, whose subjects are all or generally poor; because the subjects of every nation, if they are under a good government, will contribute as much as they can towards a necessary war, and rich subjects will always be able to contribute more or longer than poor: but then these riches of particular men must be such as consist in lands, houses, goods, ready coin, bullion or jewels; they must not be such as consist in large sums out at interest among their fellow-subjects; for such riches add nothing to the riches of the nation, nor would the nation be one bit the poorer, if they should declare a year of Jubilee by a public law: whatever such men may be able to contribute towards the public expence, must diminish the power of others to contribute; and therefore it is against the interest of every nation to have a great number of such men, or to encourage the heaping up of such riches among them.

Then, Sir, as to the revenue of a nation, it is to be computed, in the same manner, from the aggregate total of every man's revenue in particular; but then these particular revenues must consist in such as come from land, trade, or industry: they must not, for the same reason, be such as come from sums of money lent out at interest. And, lastly, I shall observe, that an acre of land without any improvement, may not perhaps be sufficient to employ and subsist one man; whereas the same acre, with proper improvements, may perhaps be made able to employ and subsist two or three. Now, Sir, suppose a gentleman of 1,000*l.* a year land estate, has in a course of years saved 10,000*l.* suppose, upon looking over his estate, he finds, that by laying out this money in improvements, he could make

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his estate worth at least 1,500*l.* a year: he would then naturally consider which was the most profitable way of laying out his money, whether to lay it out upon these improvements or to lay it out on a purchase of another estate, or to lend it upon a mortgage. In this case, if the interest of money were at 5 per cent. he would certainly lay out his money upon a purchase or mortgage, because he would have as much yearly profit by laying out his money in either of these ways, as he could expect by laying it out in improvements; and in either of these two ways he would save himself all that trouble and fatigue, which the last would necessarily subject him to. Though this gentleman, by laying out his money in such a manner, certainly improves his own revenue, though he has added to the riches of his country by his frugality, yet he adds nothing either to the riches or the revenue of his country, by his purchase or mortgage; nor does he enable or make his country fit for employing or maintaining any greater number of inhabitants. On the other hand, if the natural interest of money were at 3 per cent. the price of lands would rise very near in proportion; in which case he would certainly lay his money out in improvements, because, in this way, he would make near 200*l.* a year more of his money than he could do by purchase or mortgage; and by laying it out in such a manner, he would not only add to the riches and revenue of his country, as well as to his own, but he would make his country capable of employing and maintaining a greater number of inhabitants than it could do before.

The case, Sir, will be the same in small sums as well as large. Suppose a farmer has taken a 21 years lease of a small tenement, and after stocking his tenement has 20*l.* over: Suppose he finds that by laying that 20*l.* out in improving his tenement, he may improve its value 20*s.* a year: while money is at 5 per cent. he will certainly chuse to lend out his money at interest, rather than lay it out upon such an improvement; but if the interest of money were at 3 per cent. only, he would certainly lay it out upon the improvement; and by so doing would add to the revenue of his landlord, as well as to the revenue of his country. This, the landed gentlemen that hear me, will, I hope, have a particular regard to; for from hence they may see how naturally a low rate of interest tends to the improvement of their estates, as well as raising their price, and that a high interest prevents both the one and the other.

I hope, Sir, I have now shewn, even to a demonstration, that the lowering of interest must be attended with great advantages to the nation in general, and to the landed gentlemen in particular; and I have shewn, I hope, likewise to a demonstration, that if the interest of money be continued for any number of years at the present rate in this kingdom, which is much higher than it is in those countries which are our greatest and most formidable rivals, both in trade, and naval power, it must be attended with the gradual decay of our navigation, our foreign trade, and our home manufactures, which will at last bring irretrievable ruin upon the whole nation. Whoever is convinced of this, must have a heart of stone, he must have no bowels towards his native country, if for any selfish end he opposes, if in spite of every selfish view he does not promote any practicable scheme, that may tend towards bringing the interest of money in this country upon a par with what it is in our neighbouring countries, especially in those neighbouring countries, which are our greatest rivals in trade and naval power. And, I am sure, no gentleman will say, it is possible to bring down either the natural or the legal interest of money between man and man, till after we have reduced the interest payable upon all our public securities; for by the long and regular payment of the interest upon such securities, and by the growing provision we have made for paying off the principal by degrees, they are got into such credit, that no man will lend upon a private security for the same interest he can have upon a public; except a very few persons who have large sums, which they are willing to lend at the same interest upon mortgages of land only.

I shall not pretend, Sir, it is in our power, or in the power of any nation, to make what regulations they have a mind, with regard to the legal interest of money. The natural interest of money is always the standard by which the legal ought to be regulated; and the natural interest of money does not depend upon the regulations of men, but upon natural and sometimes very accidental events: But this I will say, that by a prudent and circumspect administration of the public affairs of any country, such measures may be taken as must necessarily contribute towards reducing the natural interest of money; and when such measures are observed to have

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taken effect, the legal interest of money ought then to be reduced; for the legal ought always to be kept at a rate equal to, or but a very little above the natural; because a great deal of money is in every country borrowed by the young and extravagant, in order to support their luxury and extravagance; and as such persons are apt, and generally obliged, to pay a higher interest for it, than those who borrow, in order to employ it in trade, one of the most effectual ways to prevent their luxury and extravagance, (which every government ought to prevent as much as possible) is, to make it dangerous for men to endeavour to reap great profits, by supplying them with the proper medium for supporting their luxury and extravagance.

Even in this country, Sir, if the supplies of the year had been duly raised within the year, and the Sinking-Fund wholly and regularly applied to the discharge of our public debts, ever since its first establishment, I will be bold to say, the interest upon any public funds we had remaining, would not now have been above $2\frac{1}{2}$, nor would the natural interest of money between man and man, where there was any tolerable security, have been above 3; for the natural interest of money must always depend upon the proportion between the quantity of money ready to be lent at interest, and the quantity wanted to be borrowed; so that public loans of all kinds, must tend towards enhancing the natural interest of money, and public payments must as necessarily tend towards its reduction. Therefore, from the present low rate of interest upon public securities, notwithstanding our being now very near as much in debt as we were at the end of the war, I am sure I may venture to say, the natural interest upon all sorts of securities would have been at or below 3 per cent. if we had paid off the greatest part of our old without contracting any new debt: and if we had done so, I am convinced, the trade of this kingdom would have been in a much more flourishing state than it is at present, and the nation much better able to support its friends or avenge itself of its enemies.

These, it is true, Sir, are but melancholy reflections, however they may serve for making us more circumspect in time to come, and for making every man contribute with the greater alacrity towards whatever sums may hereafter be thought necessary for the current supplies, in order that the Sinking-Fund may for the future be applied wholly to discharge the national debt, and to relieve the people from those heavy taxes they now groan under; for either of which purposes it will be made much more effectual by a reduction of the interest payable to the South-Sea Old and New Annuitants, from 4 to 3 per cent. if such a thing can be brought about without any danger to public credit, or breach of public faith; and that this may in all probability be done, is what I shall now endeavour to demonstrate. That there are in this kingdom large sums ready to be lent at an interest of 3 per cent. is evident, from the ready access the government has for some time had, to the borrowing of money at that interest for the yearly supplies, and upon every new fund that has been lately established. But this is still more evident from the high premium now daily given for those public securities, that bear an interest only of 3 per cent. Therefore, I think, it is reasonable to believe, that if books of subscriptions should be opened, the money subscriptions would amount at least to two millions, and the whole million to be paid to the South Sea Old Annuitants at Michaelmas next, would, I believe, be subscribed into this new fund; so that soon after Michaelmas next, the public would have a fund of three millions in ready money, to pay off a part of those Annuities, whose proprietors should not appear willing to accept of an interest for 14 years certain, at the rate of 3 per cent.

Now, Sir, as there is one million to be paid off at Michaelmas next, the total of the remaining Annuities will amount to about 23,600,000*l.* and if the whole three millions, raised by money subscriptions, together with a million from the Sinking-Fund, were to be applied at the Michaelmas following, toward paying off the like sum of Old and New South-Sea Annuities, which for calculation's sake I shall suppose to be 24 millions full, it would amount to 16*l.* 13*s.* 4*d.* per cent. That is to say, every proprietor would have so much per cent. of his stock annihilated, so that he would lose the whole advanced price upon that 16*l.* 13*s.* 4*d.* stock so annihilated, which at the present advanced price, (being 13 per cent.) would be above 2*l.* per cent. entirely lost; and if the present advanced price of stocks should rise, every proprietor's loss by such a payment, would rise in proportion. To avoid this immediate loss, we may suppose, that some of the present proprietors of South-Sea

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Annuities would subscribe their respective shares in those Annuities, and would be willing to accept of the 3 per cent. for 14 years irredeemable: Suppose these subscriptions amounted in the whole but to three millions, this would make the first loss fall still heavier upon the obstinate; because the four millions in money would then come to be divided upon twenty one millions capital, instead of twenty four millions capital, which would make their loss, by the payment of four millions at once, amount to very near $2\frac{1}{2}$ per cent. But suppose they continued obstinate, let us inquire what they would gain by their obstinacy. The whole capital of Old and New South-Sea Annuities remaining at 4 per cent. after Michaelmas come a twelvemonth, would be but seventeen millions, to the discharge of which we must suppose the Sinking-Fund afterwards wholly and regularly applied; in which case, we must suppose that a sum of at least 1,300,000*l.* would be yearly applied to the discharge and annihilation of the like sum of that capital: Therefore, suppose the advanced price of those Annuities should rise no higher than it is at present, it will appear by calculation, that upon the very first payment, which would be at Michaelmas 1739, every one of the proprietors of this 17 millions would have above 7*l.* per cent. of this stock annihilated, and would thereby lose 19*s.* 10*d.* $\frac{1}{2}$; at the next Michaelmas following, every such proprietor would have above 8 per cent. of his stock annihilated, and would consequently lose above 1 per cent. and this loss will increase yearly, in proportion as the Sinking-Fund increases, and the capital to which it is to be applied diminishes, if the advanced price should continue as high as it is at present; and no man can reasonably expect the price of any of our stocks will fall lower than they are at present, as long as peace continues, and the Sinking-Fund is regularly applied.

From these calculations it must appear, Sir, that, if books were opened for taking in subscriptions either in Annuities or money, with a right of preference to the former, a subscription of two millions in money, and the three millions in Annuities, any time before next Michaelmas, with the money-subscriptions that might then be expected from the million to be paid off, would make it the immediate interest of all the rest of the Annuitants to come in and subscribe their respective Annuities at an interest of 3 per cent. for 14 years irredeemable, rather than continue them at 4 per cent. subject to the trouble and loss of having a part of their capital every year annihilated, by means of payments from the Sinking-Fund. That three millions of Annuities would be immediately subscribed, I make no question; because, even suppose things stand upon their present footing, every annuitant must lose above a half per cent. by the yearly payments to be made; and I am sure the trouble of replacing their partial payments is by many thought worth the other half per cent. at least. Then as to the two millions in money, I am confident, that is the least sum that would be subscribed, if there should be occasion for it; for I am sure the 3 per cent. funds could not bear so high a premium, if there were not a great deal of money in the nation ready to be lent at that interest; but I am in some doubt, whether or no there would be occasion for accepting of any money-subscriptions at all; because every man may, from the general circumstances of our affairs, find reason to believe, and I have particular reasons to believe that a great number of our annuitants are uneasy in their present situation, and would be glad to accept of 3 per cent. if they were assured of not being obliged to receive any payment for 14 years to come; and if one third of them, or any number above one third, should readily come in, it would make it the immediate interest of all the rest to come in and subscribe; because they would lose above 1 per cent. yearly by the future payments to be made from the Sinking-Fund; besides the trouble they will be annually put to, in receiving and replacing the partial payments which would be made them from that fund only; and besides the danger they would be in, of having the whole soon paid them by a large money-subscription.

From what I have said, Sir, and the easy and obvious calculations I have made, it is evident, that we may in all probability before Michaelmas next, or very soon after, reduce the interest upon all the South-Sea Annuities, both New and Old, from 4 to 3 per cent. interest, without any danger to public credit, or breach of public faith, which would make the Sinking-Fund amount from thenceforth to above 1,400,000*l.* per annum, to be applied only towards redeeming the capital of our several trading companies. This would bring every one of them so much within our power, that I am convinced we could then

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get every one of them to accept of 3 per cent. interest upon any reasonable terms we had a mind to propose, which would be a new addition to the Sinking-Fund, of above 170,000*l.* a year: From which time the Sinking-Fund would amount to about 1,600,000*l.* per annum, and then we might venture to annihilate above one half of it, by freeing the people from the taxes upon coals, candles, soap, leather, and such other taxes as now lie heavy upon our poor labourers and manufacturers, and thereby enhance their wages in every part of the kingdom, but especially in the city of London; by which the prime cost of all our manufactures is so much enhanced, that it is impossible for our merchants to sell them in foreign markets so cheap, as manufactures of the same kind and goodness are sold by the merchants, even of those countries, where the interest of money is as high as it is in this.

The remaining part of the Sinking-Fund might then, Sir, be applied towards paying off those Annuities and public debts which now bear an interest of 3 per cent. only, and after that, towards diminishing the capitals of our several trading companies, till the expiration of the term of 14 years to be granted to the annuitants; at which time the Sinking-Fund would again amount to above a million yearly, which would be sufficient for paying them off, and freeing the nation entirely from all its public debts, in a short time; for if the people should be immediately relieved from taxes to the net amount of 800,000*l.* or a million per annum, it, would have, I am convinced, such a happy influence upon all the branches of our trade and manufactures, especially if it should be attended with the reduction of the natural interest of money between man and man, which it necessarily would, that the net produce of every one of our remaining taxes would increase in proportion to the increase of our trade; whereas if our people continue subject to all their present taxes, and the present high rate of interest continues, it is, I think, evident to a demonstration, that our trade and manufactures must yearly decrease, and consequently the number of our people will be diminished yearly, and the rents of all our land estates will sink gradually, from whence must necessarily ensue a gradual decrease in the produce of every one of our present taxes; and when the people in general come to feel these melancholy effects, I am afraid, all regard for public credit and national faith will then be swallowed up in the ruins of the public, and 'Salus populi est suprema lex' will become the general and the only cry.

I am very sensible, Sir, that the reduction of interest upon all public securities, from 4 to 3 per cent. will fall heavy upon, and will be grievously felt by those who have but small capitals, and who have nothing else to trust to for a subsistence, but that annuity or interest they have from our public funds. I have as great a compassion for all such persons as any gentleman of this House can, or ought to have; for there can hardly be any public mischief but what must contribute to the advantage, perhaps to the subsistence, of some private men; nor can there be any measure taken for the public benefit but what may be attended with a loss to some private men. But when we are considering what may tend to the good of the nation in general, we must lay aside all compassion for particular persons, so far as it happens to be inconsistent with the public good. The only regard we ought in such cases to have, is, not to do a real injury to any private person; and surely it cannot be said to be doing an injury to any of the public creditors, to borrow money at 3 per cent. in order to pay those off first, who are not willing to accept of such a low interest as the rest are willing to accept of.

Compassion therefore, Sir, can be of no weight in the present question; but if it could, it must fall with its greatest weight upon that side where the sufferers are the most numerous, and the sufferings the most grievous. By continuing the present taxes and high rate of interest, every merchant, every tradesman, every labourer, in short, every person in the kingdom, will suffer severely; and by the decay of our trade many will, in every succeeding year, be utterly undone; whereas, by the reduction of interest from 4 to 3 per cent. no merchant, no tradesman, no labourer, as such, will suffer, no man will be utterly undone: the only great sufferers will be those who can very well bear it, I mean our overgrown rich stockholders, most of whom do not near spend their yearly income from the funds; and even as to those who have but small capitals, and have nothing else to trust to for a subsistence, no one of them can be utterly undone; for many of them will, without doubt, take their money and turn it into some trade or business, which will be an advantage to the nation in general; and those who are

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grown too old for entering into any trade or business, can be exposed to no other suffering, except that of being obliged to contract their yearly expence, which they may the more easily do, because upon abolishing some of our most heavy taxes, all the necessaries, as well as all the conveniences of life must necessarily become a great deal cheaper than they are at present. From whence I must conclude, that by the reduction of interest, a few thousands will suffer, or think they suffer, by their not being able to heap up riches so fast, or to live so luxuriously or conveniently, as they might otherwise have done; but by continuing our taxes, and the present high rate of interest, millions will suffer, and hundreds of thousands will at last be utterly undone; and from this, which is certainly the true state of the case, I leave to every gentleman that hears me, to consider, upon which side of the question, our compassion, even with respect to private men, ought to fall with its greatest weight.

But, Sir, that every sort of distress may be prevented as much as possible, and at the same time, that the public may be enabled to take every possible method to raise money for reducing the interest of the public funds, or paying off those who will not accept of a less interest than they have at present, I think books of subscription should likewise be opened for the sale of Annuities for terms of years to all sorts of persons, or for life to such persons as are not foreigners, nor under the age of 44 or 45, at such rates as this House shall deem reasonable, supposing the rate of interest not to be above 3 per cent. As the circumstances, humours, and inclinations of mankind are various and very different, there may be some persons who would chuse to purchase such Annuities, rather than to lend their money at 3 per cent. therefore the public would certainly reap some benefit from this alternative; and a great many of those annuitants who have but small capitals, and are too far advanced in years, for engaging in any sort of trade or business, would have an opportunity of increasing, instead of diminishing their present yearly income.

I have now, Sir, explained, as fully as I am able, the scheme I have thought of for an immediate reduction of interest upon all the South-Sea Annuities, and I have given you my reasons for thinking it practicable; but suppose I should be disappointed; suppose that, upon opening such books of subscription as I have mentioned, no man should come in to subscribe either stock or money at an interest of 3 per cent. what harm can ensue either to the public or to any private man? The annuitants will remain upon the same footing they were on before this proposition was mentioned, or the scheme attempted: they will continue to enjoy their 4 per cent. interest till the Parliament can pay them off; and if it be an advantage not to be soon paid off, the price of their Annuities will rather rise than fall, upon its being made apparent to the world, by an experiment, that the Parliament has no way of paying them off but by the regular application of the Sinking-Fund. Then as to the public, I cannot so much as suggest to myself any prejudice that can ensue from the total misgiving of this scheme; for surely no man can have the worse opinion of our management, on account of our endeavouring to borrow money at 3 per cent. in order to pay off those debts for which we pay 4; but on the contrary, if we should make no such attempt, when there is such a probability of our meeting at least with some success, it will, in my opinion, make the whole world conceive a bad opinion of our conduct, which can no way add to our credit; and it will make the whole nation believe, that the interest of the public creditors in particular has got, by some unjustifiable means, a greater influence in this House, than the interest of the nation in general; if such an opinion should prevail, the consequences might be fatal to the principal as well as the interest of our public debts; for from such an opinion the people would naturally conclude, that they must for ever be loaded with heavy taxes, in order that the public creditors might enjoy a high interest, and that either the nation or the public creditors must be utterly undone. In such a dilemma it is easy to see which side the people would chuse; and an enraged people have seldom any great regard either to public credit or public faith.

This is a consequence, Sir, which I dread to mention, which I dread to think of; but it is a consequence, which, in my opinion, is unavoidable, unless some measures be speedily taken for reducing the interest, and for easing the people of some of those heavy taxes of which they have so long in vain complained. There are many of the public creditors, I know, who seem highly displeased with me, for making any sort of proposition towards reducing the

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interest payable upon any of the public funds; but I can with the utmost sincerity declare, that my turning my thoughts this way, proceeded from a regard for them, as well as from a regard for my country; and if the scheme I have now proposed, or some such a one, be not speedily put in execution, I am fully convinced they will in a few years have reason to wish my scheme had met with success, and will then acknowledge their being obliged to me for having endeavoured to prevent their impending ruin. At present I am very easy about what some of them may say or think; for I shall always direct my conduct in this House by that which, in my own conscience, I think just and right, without any regard to the false glosses which some people, from selfish motives, or mistaken notions, may put upon it. Truth will always at last appear in its full splendor; and as I am convinced what I have now explained to you, will contribute towards the good of the public, and consequently towards the true interest of the creditors of the public, at least of such of them as are natives of Great Britain, and for that reason must have an interest in, and may, I hope, be supposed to have a regard for, every thing that can contribute to the happiness of Great Britain; therefore I shall conclude with making this motion, that his Majesty be enabled to raise money either by sale of Annuities for years or lives, at such rates as should be prescribed, or by borrowing at an interest not exceeding 3 per cent. to be applied towards redeeming Old and New South-Sea Annuities; and that such of the annuitants as should be inclined to subscribe their respective Annuities should be preferred to all others.*

To this it was answered in substance as follows:

Sir; I am extremely sorry to find myself under a necessity of opposing the Scheme now laid before you. I am persuaded the hon. gentleman would neither have thought of it, nor proposed it, if he had not imagined it would contribute both

* "This motion occasioned long debates. It was principally defended by the landed, and resisted by the monied interest, and the minister's friends were divided. The House did not appear inclined to adopt any specific determination; some of those who were averse to the measure, declared themselves incapable of giving their opinion, without due reflection and more information. They moved, therefore, that the farther consideration should be deferred till that day se'nnight, which was agreed to without opposition. This point being carried, the adversaries of the Bill made another effort, which was attended with success. It had been urged as an objection, that a considerable part of the South Sea Annuities belonged to widows and orphans, and to persons who were proprietors of small sums: this suggestion had a great effect upon the House. Willing therefore to take advantage of this impression, they moved on the following day, that an account should be laid before the House, of the quantity of Old and New South Sea Annuity Stock, holden by any executors, administrators, or trustees; which accounts were presented on the ensuing Friday.

"Hitherto the minister took no public part, either for or against the scheme; although he was generally supposed to be inclined in its favour. But from this period he was determined to oppose it, though he thought it prudent to act with circumspection, as many members, who were personally attached to him, favoured the measure. In this situation the minister had watched the progress of public opinion, and found it decidedly averse to the proposal, which excited the most violent clamours among the proprietors of the funds." Coxe's Walpole.

During the adjournment of the business, the ministerial papers were filled with objections to the measure, and the following Perspicuous Statement, exposing its inexpediency, appeared in the Whitehall Evening Post, which was either drawn up by the minister himself, or approved by him.

"As I can by no means approve of the scheme, published in your paper of Saturday last, for reducing the interest of the national debt to 3 per cent. I shall, for the sake of those who are not acquainted with calculations of this kind, make a few observations on the proposed method of reduction, that such proprietors of the public funds may see how far their interests are like to be affected by it. And, in the first place, I observe, that the annuities proposed for certain terms of years are calculated at compound interest, allowing the annuitants 3 per cent. for their money, and the surplus of the annuity is to reimburse them their purchase money at the same rate of interest.

"To explain this, I shall fix upon the first annuity proposed, which is 4 per cent. for 47 years, at the end of which the capital is to be annihilated. By this proposal the purchaser is to receive 3 per cent. interest, and the remaining 1 per cent. is to reimburse the purchase money in the term proposed at compound interest; but I cannot think this a fair method of computation in the present case; for, although it be true, that 1*l.* per annum, will, in 47 years, amount to 100*l.* at compound interest; yet it is highly improbable, if not impossible, that interest upon interest, or indeed

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to the good of the public, and the good of the creditors; but as I think it will tend to the prejudice of both, I am therefore, for the same reasons, obliged to oppose it. I wish with all my heart we were in a condition to pay off, honourably and fairly, all the debts due by the public, and to give the people an immediate relief from all those taxes which are appropriated to the payment of principal and interest; but as it is impossible to do this at once, as there is no way of paying off our debts, or abolishing our taxes but by degrees, by means of the Sinking-Fund; and as this is a certain way of paying off, in a few years, all our debts, and freeing the people from almost all those taxes, which have been made perpetual by parliament, I shall always be fearful of coming into any scheme which may disturb, and perhaps entirely disappoint that certain and regular method we are now in, whatever plausible appearances it may have at first view.

To reduce the Interest payable upon all

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any interest at all, should be made of such small sums for 47 years running, as must be done, to raise the sum advanced; and therefore such a method of calculation must be fallacious, and nothing but the surplus of the annuity can be safely relied on for reimbursement of the purchase money; and then it will be evident to the meanest capacity, that if the annuitants are allowed 3 per cent. for their purchase money, they will, at the end of 47 years, have received no more than 47 per cent. of their principal; and in all the other cases the purchasers of the proposed annuities will be considerable losers; only it is to be observed, that the shorter the term is, the less the loss will be: for if the annuity be 7 per cent. for 19 years, the purchasers will receive back 76 per cent. and if 10 per cent. be allowed for 12 years, they will receive back 84 per cent. of their principal money: the reason of which is very obvious to those who know, that compound interest is a series of geometric progression.

"Secondly, I observe, that if, out of any of the proposed annuities, there is annually reserved a sum sufficient to reimburse the purchase money, the annuitants will not receive an interest of 2 per cent. upon their principal. And for the proof of this, I shall only take notice of the two extremes and middle term in the annuities proposed; by which it will appear, that if 2*l.* out of 4*l.* be reserved for 47 years, it will raise no more than 94*l.* and if 5*l.* out of 7*l.* be reserved for 19 years, it will amount to no more than 95*l.* and 8*l.* out of 10*l.* for 12 years, will give only 96*l.*

"Thirdly, It is to be observed, that the method proposed will not enable the parliament to give immediate ease to his Majesty's subjects, by taking off some of the taxes which are most burthensome to the poor, and especially to the manufacturers: for by the first proposal, the same annual interest which is now paid, viz. 4 per cent. is to be continued for 47 years; and consequently the taxes by which that interest is raised must be continued for that term, which will give but small relief to the present generation. And in all the other cases, the annual interest must be augmented, instead of being reduced: for if the proprietors of 20,000,000*l.* of the public debts could be supposed to accept any of these annuities upon the terms proposed, the annual interest must then be increased in the following manner; viz.

	£.
For 31 Years -	- 200,000 per Ann.
23½ Years -	- 400,000
19 Years -	- 600,000
16 Years -	- 800,000
13¾ Years -	1,000,000
12 Years -	1,200,000

"Fourthly, I observe, That the other part of the scheme, which relates to annuities upon lives, is liable to the same objection: for if the proposed annuities are taken at a medium of 8½ per cent. and the lives are supposed at a medium to continue 18 years (which very nearly coincides with the rules laid down for finding the number of years due to any given life) then it will be evident that a further interest of 4½ per cent. must be raised to pay such annuities, which will more than double the present annual interest.

"Fifthly, It is to be observed, that this scheme is not calculated for the good of the whole, but, according to the old proverb, to rob Peter to pay Paul, or, to remove the burthen from one part of the community, and lay it upon another, and upon that part too which hath already contributed no less than six shillings and eight-pence in the pound towards lessening the public debts. I am unwilling to charge the author with an intention to oppress the proprietors of the public funds, though his scheme manifestly tends to it: but why does his tenderness lie all on one side? Is there no part of it due to those widows and orphans, who have no other way of subsistence, but the income of small fortunes in government securities? For my part, I cannot perceive the honesty or policy of easing one part of the community, by distressing another; neither can I apprehend any wisdom or justice in making invidious distinctions between the landed and monied interest, since it is in a great measure owing to those, who ventured their fortunes in the public funds, that the Protestant part of this nation have any lands or liberties left. I do therefore hope that their present interest will not be lessened; but if nothing else will serve, I am persuaded I can propose a way of doing it that will be the least injurious to them of any that can be thought of, which, if called upon, I am ready to publish."

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or any part of our public debts, and thereby to add to the yearly produce of the Sinking Fund, or to enable us to annihilate a part of it, by abolishing some of our most heavy taxes, is a project, Sir, which at first view seems mighty alluring. In private life, a gentleman who had a large mortgage upon his estate, would think himself highly obliged to a man who should offer to put him in a way of reducing the interest payable upon that mortgage, in order to enable him to live better than he did before, or to pay off the mortgage, and clear his estate sooner than he could otherwise do; but if, upon examining this project, he should find reason to believe, he might be disappointed as to the raising of a sufficient sum at a less interest, and that the attempt would certainly exasperate all his old creditors, and excite every one of them to file bills of foreclosure against him, by which his estate might be brought to immediate sale at a bad market, and he and his family brought to utter perdition; he might, perhaps, thank his friend for his kind offer, but surely he would be a madman, if he should embrace it, or openly attempt to carry the project into execution. This I take to be our case at present; but before I endeavour to shew the probability, or the danger of our being disappointed, I shall beg leave to consider a little what the hon. gentleman has said about the interest of money and the influence it has upon our trade, manufactures, and navigation, and upon the improvement of our land estates.

I shall agree with him, Sir, That in a country where the interest of money is at too high a rate, there can be little or no trade, or improvement of land; because it is a certain sign, there is little or no money in that country; and without money no sort of trade can be carried on, nor any land improvements made: but, I hope, it will likewise be granted, that the interest of money may be too low as well as too high; for those who have more money than they can employ in any trade or business, ought to be allowed to make some profit by lending it; in order to tempt them not to hoard, or to hide their talents in the earth, but to lend them to those who can employ them to advantage in some sort of trade or business; and the hopes of getting a moderate interest or profit for money, will always be a great incitement to men of all ranks and conditions, to get and to save as much as they can. What do men engage in trade for? What do they toil and fatigue, and save for, during the greatest part of their lives, but to provide a comfortable and easy subsistence and relief for the infirmities of old age? And after they have done so, what do they continue their toil and their saving for, but to satisfy their ambition by establishing and enriching their families? If they could make little or no use of their money after they have got it and saved it, no man would toil, no man would carry on any trade or manufacture farther than was absolutely necessary for his daily and immediate subsistence. Therefore to encourage men to engage in trade, or to lend their money to those that will, to encourage men to get and to save money, it is absolutely necessary to leave them in a condition of receiving some profit or benefit from their money after they have got it and saved it; and this profit must be great or small according to the circumstances of the country where they are, and according to the humour and inclinations of the people among whom that profit is to be settled or regulated.

A very low rate of interest for money, Sir, is so far from being the origin or first cause of a flourishing trade, that a flourishing trade is always the cause of a low rate of interest; and in every country, their trade must have flourished for some considerable time before the rate of interest in that country can be brought very low. The first origin of trade in every country is owing to a well-regulated constitution, and a prudent administration of public affairs, which advantages may be very much improved by concurring accidents. In this country, before the reign of Henry 7, though our constitution had a face of liberty, yet that liberty was almost entirely confined to the noble and great families, under whom most of the Commons lived in a sort of bondage or dependence; so that our constitution, though free, was not very well adapted to the encouragement of trade; and the continual wars we were engaged in from the conquest till that time, made the spirit of the nation run more upon the arts of war than of peace; but that wise king having very much broke the power and the influence of our noble families, and established the rights and privileges of the Commons, our trade began even in his reign to rear its head, and the wise and long reign of queen Elizabeth established what her father and grandfather had begun; for in her reign, which upon this occasion ought to be particularly remarked, our trade flourished

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more, and increased faster, than it ever did in any the like period before or since, though the interest of money was then at 10 per cent. at which rate it continues till the 21st of James 1, when it was brought down to 8; and at that rate it continued till after the restoration, when it was reduced to 6 per cent. from whence it is plain the establishment and prosperity of trade do not proceed from a low rate of interest, but that a low rate of interest proceeds from the establishment and prosperity of trade; and the common rate of interest having ever since been upon the decline, is to me a convincing proof, that our trade has been ever since that time in a flourishing condition, and increasing daily rather than decreasing.

For this reason, Sir, I must think it a little odd to hear some gentlemen pretend our trade is now, and has been for some years in a declining state, and yet at the same time insist, that within these 10 years the interest of money has sunk from 4 to 3 per cent. for I must observe that this pretended fall of interest is greater in proportion than what happened in that long and for the most part happy period of time, from the 37th of Henry 8, to the 21st of James 1, the former being one fourth, whereas the latter was but one fifth. Surely if our trade had been upon the decline, our national stock of ready money would have diminished in proportion; and if our stock of ready money had been diminished, the certain consequence would have been, an increase of the natural interest of money. Therefore, either our trade is in a flourishing condition, or the natural interest of money must be higher than it was 10 years ago. If our trade be in a flourishing condition, it would be dangerous, and consequently imprudent, to take any new measure for rendering it more flourishing, lest that new measure should have a contrary effect; and if the natural interest of money be higher than it was 10 years ago, it will be impossible for us to reduce the interest payable upon any of the public funds, without fraud or compulsion; neither of which we can make use of, without a breach of national honour and parliamentary faith.

But I am convinced, Sir, our trade is still in a flourishing condition, and I am of opinion a further reduction of interest, unless the circumstances of the nation should very much alter, will tend towards a thorough change, rather than improvement of that condition. The present rate of interest is so low, it can no way injure our trade; for in this country, as well as every other, most men will cheerfully engage in and carry on any branch of trade, if they can make but one or two per cent. net profit of their money in that trade, more than they can make by lending their money out at interest. We are not to presume people put a higher value upon their labour and their trouble, in this country, than they do in Holland, because the rate of interest is higher here than there; if there is any difference, it must proceed from the different nature of the people, and not from the difference of interest; and as the difference of interest is not above one per cent. it can give them no advantage in trade, at least not such an advantage as can be equal to the many advantages we have in other respects over them.

I am therefore of opinion, Sir, that our present rate of interest can no way injure our trade; but, on the contrary, that it is no more than what seems necessary in this kingdom, for prompting our people to engage in trade and to be industrious; because by so doing they may probably get such a sum of money as may, by being laid out at interest, afford them a comfortable subsistence, when they are old and past their labour; which is what very few could expect, if the interest of money were much lower than it is at present; and if a man should in his youth despair of ever being able to provide a comfortable subsistence for old age, he would never think of saving, he would think only of getting as much as was necessary for his daily subsistence, and would never engage either in labour or trade further than he found absolutely necessary for that purpose, according to the frugal or extravagant manner he chose to live in.

To this I must add another consideration, for shewing that the interest of money may be too low, and that is, the great encouragement which is thereby given to luxury and extravagance; for as too high an interest encourages the luxury and extravagance of the lender, too low an interest will always encourages the luxury and extravagance of those who have either credit or pledge upon which they can borrow. Therefore, I must think it is not a very low interest, but a moderate interest, that is the parent both of industry and frugality; and what ought to be called a moderate interest in any country, must depend upon the circumstances, the humours, and the inclinations of the people.

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From these considerations I am of opinion, that the lowering of interest would be hurtful instead of being beneficial to our trade; and I may, I think, declare my opinion the more boldly, because, I find, the famous Mr. Locke was of the same opinion, and was therefore against the lowering of interest in his time, though it was then at six per cent. For a project having been offered, in the year 1691, for reducing the national interest, in order to enable the government to borrow money at an easier rate for the expences of the war, that great man wrote a pamphlet against it, which is still extant, and reprinted with his other works. But as the low rate of interest in Holland has been much insisted on, and represented as a great advantage they have over us in trade, it lays me under a necessity of considering the difference between what may be called a moderate interest in one country, and that which may be called a moderate interest in another; which, as I have said, depends not only on the circumstances, but the humours and inclinations of the people.

In Holland they have little or no land, their chief fund is money; and as their rich men have little or no other riches but money, there can be few or no borrowers among them, but such as have a mind to employ it in trade; for a rich extravagant man, whose riches consist only in money, can have no occasion to borrow; as long as his money lasts, he makes use of it for supplying his extravagance, and when his money is gone, he has neither pledge nor credit whereon to borrow; therefore no extravagant men can be borrowers in Holland, and a man who borrows money to be employed in trade, neither can nor will give a high interest for it. On the other hand, in this country, our chief fund is land, which must always be the occasion of our having a great number of borrowers, who borrow money only for supplying their own extravagance, or for atoning for the extravagance of their ancestors; for every landed man who is extravagant, or who succeeds to an extravagant ancestor, is long a borrower, and perhaps for large sums, before he becomes a seller. From hence we may see, that the natural interest of money in this kingdom must always exceed that in Holland, till such time as the total value of our money estates exceed the total value of our land estates, as far as the former exceeds the latter in Holland. Therefore, from this difference in our circumstances, four per cent. may be a very moderate rate of interest in this kingdom, and yet three per cent. may be an extravagant rate in Holland.

Then, Sir, as to the humours and inclinations of the people, it must be granted, that our people neither do, nor can live so penuriously, as the generality of the people of Holland do; therefore a Dutchman may live, as he may think, comfortably upon three per cent. for his money, whereas no man of this country would propose to live upon such a sum, unless he could have four per cent. for it at least. For this reason an interest of three per cent. in Holland may be sufficient for prompting their people to engage in trade, and to get and save as much as they can by their industry, in order to provide for old age and infirmities; and yet four per cent. may be the least that is necessary for the same purposes, with respect to the people of this country. And with regard to those who are apt to borrow in order to supply their extravagancies, I have already shewn there can be few or none such in Holland; therefore, with them there is in this way no danger to be apprehended from the lowness of their interest; but in this country, we have in this way a good deal to apprehend, if we should ever reduce our interest too low. Thus it must appear, that if lowness of interest be an advantage in trade, it is a natural advantage the Dutch have from the circumstances of their country, and from the nature of their people: and that it is an advantage we cannot take from them, without doing ourselves an injury of a worse consequence in another way; but for this very reason we have many advantages over them, and such as greatly over-balance this one advantage they have of us. From our lands we have, or may have, provisions sufficient for all our workmen, and almost all the materials necessary for any sort of manufacture, from the first production of nature to the utmost perfection of art; whereas they have within themselves neither the materials for any manufacture, nor provisions for any of their workmen, so that both must come dearer to them, by at least the freight, and other charges of transporting them from one country to another. And from the nature of our people, we have likewise an advantage; for as our people live better, they work with greater spirit and more alacrity than their people can do, and consequently,

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must do a great deal more work in a day's time. Let us, therefore, think of improving those advantages nature has given us; for if we neglect them, in order to catch at those which nature has given to others, we shall lose the bird in hand, by endeavouring to catch at that in the bush.

As to our neighbours the French, I am surprized to hear it said they have any advantage over us, with regard to the interest of money. The legal rate of interest in that country is as high as it is in this; and the natural interest of money, at least upon their public securities, is, I am sure, much higher. Nor have they any natural advantage in trade over us worth mentioning, except that of the frugal and penurious temper of their people, especially their labourers and manufacturers, for the freight of a ship from any port in England to Spain or Turkey, is very near as cheap as from any port of France, at least the difference can have no influence upon a rich cargo; and if it could, the expence of carrying their goods to their port for export, is generally much higher in France than in England, which will more than atone for any difference there may be in the freight: and for the same reason a quantity of Spanish wool may always come cheaper to the manufacturer in England, than the same quantity can come to the manufacturer in France. But then, as to the advantages we have over them, they are innumerable, and the single one of our wool, is such a one as we may, by proper care and diligence, make insurmountable; for the more careful and diligent we are in preventing its exportation, the greater the risk of exporting it will be, and the greater the risk, the higher its price will be in France; so that at last we may raise its price so high, as to make it impossible for their manufacturers to work it up with any advantage.

Now, Sir, with regard to our taxes, as I have said before, I wish we could immediately get free of them, but they must all be continued, or our debts must remain unpaid; the more of them we abolish, before all our debts are paid, the longer we must remain under those that are not abolished. I do not know but some of the materials for manufacture, and some of the provisions necessary for life, may, by means of our taxes, be rendered dearer than they would otherwise be. However, it cannot be said, that either the Dutch or the French have in this the advantage of us; for in both these countries their taxes are as numerous and as heavy as they are in this, and in France, it is certain the method of collecting them is much more grievous; therefore, if provisions, wages, or labour, be dearer in this country than in France or Holland, it must proceed from there being a greater plenty of money in this country than in either of the other two: this, I believe, is really the case, with respect to all the counties near London; and as for our remote counties, I believe, provisions, wages, and labour, are as cheap in them as in any part of France, and much cheaper than in any part of the United Provinces. From all which, I must conclude, that neither the Dutch nor the French have any advantage of us in trade; but on the contrary, that we have, upon the balance, a great advantage of both; and from hence, as well as from the present low rate of interest, I think I have reason to believe our trade is now as extensive as ever it was; though it neither does nor can now increase so fast as it did in its infancy, nor can the profits from any branch of trade be now so great as when that channel was first opened. It is not now, indeed, so easy, for a man to get into a method of growing rich, or heap up riches so fast by trade, as it was 50 or 100 years ago; but this proceeds from the nature and certain consequences of things, and not from any decay of trade; yet this is, I believe, the chief ground of all our complaints, and the sole reason most people have for imagining our trade in general to be upon the decline.

I hope, Sir, I have now made it appear, that the present low rate of interest can have no bad influence upon our trade, and that therefore it would be imprudent and dangerous for us to take any extraordinary measures for reducing it, but that we ought to let things go in their natural and present course, till the total value of our moneyed estates has begun to exceed that of our lands; and then I make no doubt but the interest of money, upon all sorts of securities, will fall of itself, and without our taking any extraordinary measures to enforce it. I shall next examine what effect a reduction of interest would have on our lands; and here I must observe, our landed gentlemen are extremely mistaken, if they think the price of their lands will always rise in proportion to the fall of interest. If land sells for 20 years' purchase when interest is at 5 per cent. he would find himself very far out in his calculation, who should imagine that if interest could be

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reduced to 1 per cent. he might get 100 years purchase for his land: but suppose he did, what the better would he be? For if he sold his estate, he would then become a moneyed man, and the 100 years purchase in money at 1 per cent. would produce no more than the 20 years purchase would have produced when money was at 5 per cent. then as to the improvement of a land estate, if money should become so plenty as to yield but 1 per cent. interest, the price of labour, and all sorts of materials proper or necessary for improvement, would rise in proportion; so that any improvement of an estate would then cost five times as much as when money bore an interest of 5 per cent. from whence we must conclude, that a low interest of money can no way contribute to the improving of any estate; and as no man would toil or labour for the sake of saving any money, if he could get little or nothing by it after he had saved it, we cannot suppose, that any gentleman or farmer would get hands enow to assist him in any such improvement; so that the reducing of interest too low, would, in my opinion, rather prevent than encourage improvements of every kind.

Thus it appears, Sir, that a further reduction of interest, till the circumstances of the nation, and the humours of the people, be very much altered, would neither tend to the increase of our trade, nor to the improvement of our lands, but might probably contribute to the ruin of both. And as to the more speedy payment of our debts, the difference is not so great as ought to induce us to run a risk of disabling ourselves from ever paying any part of our debts, in order to pay them off a little sooner; for if we should annihilate no part of the Sinking-Fund upon the reduction of interest proposed, supposing it to extend to the whole of our debts, it would be near 22 years before we could pay off all our debts, by means of the Sinking-Fund so increased; and as our affairs stand at present, we can pay them all off in less than 25 years; so that all we get by bringing so many families into great distress, and running the risk of losing our trade, is to get rid of our debts about 3 years sooner than we could otherwise have done. But if we should annihilate any part of the Sinking-Fund, if we should annihilate only that part added to it by the reduction of interest, it will be very near 27 years and a half before we can pay off all our debts; so that we shall be 2 years and a half longer in debt than we need be, if things stand as they are at present.

I have now considered the public benefits which, it is pretended, would arise from a reduction of interest, and have shewn the great reason there is for apprehending a quite contrary effect; but, Sir, if we consider the private disadvantages and inconveniencies which must necessarily from thence ensue, they are numerous, and would affect men of every rank and degree. The landed gentlemen, and all our noble and great families, would either soon be undone, or their younger children, both sons and daughters, especially the latter, must be left in a state of beggary: 5,000*l.* may now be a suitable fortune for the younger son or the daughter of a noble family; but if interest should be reduced much lower than it is, it would hardly enable them to keep company with their elder brother's cook or his coachman; and to charge a land estate with a greater sum to each of the younger children, would very much encumber the heir, and might probably ruin the family. Merchants, shop-keepers, and tradesmen, would be in no better condition; for every branch of trade and business is already overstocked, and the reduction of interest would bring such numbers of new adventurers into trade, that they would all be ruined by under-selling and under-working one another: even those who might have the good luck to escape the general ship-wreck, and to get a little money by the utmost care, industry, and penuriousness, could never expect to get so much as would enable them to pass their old days in quietness and security. Our present set of farmers would mostly be turned out of their farms, and obliged to turn cottagers; because our farms, upon the expiration of the present leases, would mostly be let to gentlemen's younger sons, or persons of much greater stock or fortune than our present farmers are possessed of. But the most unfortunate of all would be our widows and orphans, who now have their money in the funds, or upon land security, and have nothing else to trust to for a subsistence, but the interest payable yearly or half yearly upon that money: such persons could not engage in trade, or turn their money to any other use; because orphans cannot raise it till they come of age, and widows generally have the interest only settled upon them during their lives: nay, they could

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not so much as take the benefit of that hard alternative proposed to be offered, of purchasing annuities for term of years or life. In short, Sir, it would, in my opinion, bring such a deluge of distress upon all ranks of people, that the consequences might be fatal to our present happy establishment and constitution; so that if we are not moved with compassion for the distresses of others, we ought at least to have a regard for ourselves and our own families.

But in particular, Sir, I must take notice of the great prejudice this scheme would do to the landlords of houses, the shop-keepers, the tradesmen, and all persons concerned in the retail trade, within the cities of London and Westminster, and the counties next adjacent. Many of our stockholders and annuitants, being rendered unable to live in or near the city of London, would, of course, retire to the remote and cheap counties; by which means their houses would be left empty in the hands of their respective landlords, and the butchers, bakers, chandlers of all sorts, grocers, and other tradesmen and shop-keepers they used to deal with, would for ever lose their custom. Even those stockholders and annuitants who might continue in London, or near to it, would every one be obliged to contract their expence, which would be an additional loss to the shop-keepers and tradesmen in London and Westminster, and the counties adjacent; and this double loss would likewise considerably affect the custom these shop-keepers and tradesmen have from one another. This consequence of the Scheme proposed is so obvious, that I must say I am surprized to find it patronized by some of those gentlemen who have always shewn a particular regard for the citizens of London. I am sure they do not view it in the same light I do; for if they did, they would certainly have been so far from patronizing it, that they would have opposed it to the utmost of their power.

These, Sir, are some of the dangers, which I think are justly to be apprehended from the Scheme now before us, supposing it should succeed; but I have the comfort to think it would fail in the execution, though every branch of the legislature should agree to it; and I shall beg leave to give you some of my reasons for thinking so; after which I shall take the liberty to shew you some of the bad consequences such a fruitless attempt may be attended with. But I must first make an observation upon the two ends proposed by the Scheme, which are, that we may the sooner get rid of our debts, and immediately relieve the people from some of their burthensome taxes. These two ends are, I confess, mighty plausible, but the misfortune is, that they are, as I think, absolutely incompatible. It is impossible to relieve the people from any of the taxes appropriated for the payment of our debts, without prolonging that payment; and though our taxes are certainly very burdensome, yet experience has shewn they are not altogether insupportable. In this case therefore the first question that occurs is, Whether it be more for the advantage of the nation in general to continue our taxes till the nation be quite free, or very near free from debt, and then abolish them all at once, which may be done in a small number of years, if the Sinking-Fund be duly and regularly applied? Or whether we ought now to abolish some of the taxes, which we may do without reducing the interest or ruining any of the public creditors, and thereby leave the nation incumbered with a large debt for a much longer time? If this were to be a question, I should, according to my present sentiments, be for the first method; because I think it is not only the most advantageous to the nation, but the most just with respect to our creditors. I think it is our business, before all things, to rid the nation of debt; for till then we can never propose to act with such vigour as we have formerly done, either in assisting our allies, or avenging ourselves of our enemies; and I cannot think it absolutely just, with respect to our creditors, to annihilate any part of the Sinking-Fund, till they are all paid; because by the express words of the law by which it was established, and by many laws since that time, it stands appropriated to the payment of those debts which were contracted before the year 1716. This was always my opinion, and was formerly the opinion of some gentlemen in this House, who seem to be great lovers of the Scheme now before us, and with whom I have generally joined in opinion ever since I have had the honour to sit here; but when they change their opinion, I shall not think myself any way bound to join with them, unless they give me some better reasons than I have yet heard, for such a change.

Now, Sir, to come to my reasons for thinking the Scheme impracticable as well

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as incompatible. There may, I grant, be some people in this nation, who are willing to lend their money at 3 per cent. that there are such is evident from the sums that have lately been borrowed at that interest, and the premium such securities are sold at; but I am convinced, we should find ourselves vastly mistaken, if we should expect to borrow two millions or half a one at that interest; for with respect to the sums lent for the current supplies, they are lent by such persons as cannot lie out of their money for any term of years; and with respect to the premium upon 3 per cent. public securities, it proceeds entirely from the small quantity of such securities that are or can be in the market. Those who lend upon such securities are generally men of vast fortunes, and who do not intend to be chopping and changing, so that few or none of them are ever in the market; therefore a very small sum of money brought to market, in order to be laid out upon such securities, raises their price above par: even such a small sum as 50,000*l.* brought to market at any time, more than sufficient to purchase all that are then to be sold, would raise them to a premium higher than that they are now sold for; and being once got to a premium, they must continue at it, because few or none of those who are possessed of such securities, are ever under a necessity of selling. And as for East-India Bonds, and such like securities, they are always bought up by those who do not think proper to let their wealth be known, or by such as must always have those securities which they can turn into money upon an hour's warning. From hence we may see, Sir, that none of those who lend money for the current supplies, or who become purchasers of bonds at 3 per cent. would become subscribers upon this new Scheme; and if you should open such books as are proposed, your other securities at 3 per cent. would soon come to sell under par; because many of the present proprietors would chuse to sell out of the Old, in order to become subscribers to the New, on account of their being made irredeemable for 14 years; which would bring such a glut of the Old to market, as would certainly bring them under par; and this would of course put a stop to any man's coming to subscribe for any new security at that interest.

There may likewise be some few of the overgrown rich annuitants, especially such as live at a distance from London, who would rather accept of 3 per cent. for 14 years irredeemable, than be at the trouble of receiving yearly, or every 2 years, a partial payment, and replacing that payment in stock or annuities; but the number of such persons is so small, that I am convinced their subscriptions would not amount to half a million, and much less to three millions. I am afraid the hopes gentlemen have of great subscriptions in money and Annuities, are founded chiefly upon a wrong supposition. From the premium given for our 3 per cent. they suppose the natural interest of money is now at 3 per cent. but that this is a mistake, is, I think, evident from the price of all our other funds; for if the natural interest of money were no higher than 3 per cent. our 4 per cent. Annuities ought to sell at 133 and one third; Bank stock at 183 and one third; and East India at 200*l.* per cent. which is very far from being the case.

But, Sir, if the natural interest of money lent upon pledges of jewels or plate, or upon good and undoubted mortgages of land, were at 3 per cent. we are not from thence to infer, that the natural interest of money upon all sorts of public securities, especially Annuities, could be no higher. Our annuitants are far from being in as good a condition as a pledge of jewels or plate, or a mortgage of lands. If war or any other accident should raise the natural interest of money, a pledge or mortgage could insist upon payment, or a higher interest, otherwise he would bring his bill of foreclosure, and have the pledge or the mortgaged lands sold, by which means he would certainly recover his principal and all arrears of interest, and would then get a higher interest for it from some other borrower. On the other hand, let the natural interest of money rise as high it will, an annuitant can neither insist upon payment, nor can he bring a bill of foreclosure against the public; if he wanted his money, he could recover it no way but by sale at the market price, which would certainly, in that case, be much below par; nay, perhaps he might find it impossible to meet with a purchaser, and then he could have no other resource, but to take his 3 per cent. while the government remained in a condition to pay him; for even as to the payment of his Annuity, he has no such absolute certainty as a pledge or mortgage. For which reason, if money were now commonly lent upon pledges or mortgages at 3 per cent. we could hardly expect subscriptions for Annuities at 3; and,

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I must think it a little extravagant to expect any such, especially for such a large sum; when it is well known, that the common rate of interest upon pledges or mortgages is 5 per cent. and the lowest 4.

For these reasons, Sir, I must be of opinion, that however plausible this scheme may appear in speculation, it will be found impracticable in the execution; and the more so, because, it is to be expected, all the moneyed men in the kingdom will join in measures for preventing its taking effect. And now, Sir, with regard to the consequences of our being disappointed in such an attempt, they are various, and may be fatal. I shall begin with one which, I think, will be certain, whether the scheme take effect or not. The very attempt will make all foreigners, especially the Dutch, draw their money out of our funds as fast as they can; for the chief reason any foreigner has for trusting his money in our funds, is, because he makes a greater profit of it here than he can do in his own country, upon any security equally certain and good. It has been allowed, the Dutch may make 3 per cent. of their money at home; and if we examine into the loss they are at by the partial payments made upon our funds, and the expences they are at for commission, postage of letters, and other incident charges, we shall find they do not now make much above 3 per cent. of their money; so that if we should reduce 1 per cent. of the interest now paid them, they would not then make much above $2\frac{1}{2}$; for which reason I think it is most justly to be apprehended, they would all at once draw their money out of our funds; and what a shock the drawing of so much ready cash out of the kingdom at once must give to our public credit, to our trade both foreign and domestic, and to the natural interest of money between man and man, I shall leave to gentlemen to consider; only I must acquaint them, it is generally computed the Dutch have above ten millions sterling in our several funds.

The gentlemen of the other side of the question pretend, the world will be apt to conceive a bad opinion of our conduct, if we should not endeavour to take advantage of the present advanced price of 3 per cent. securities; but I have shewn the premium upon such securities is by much too narrow a foundation for us to build any hopes on, of reducing all our annuitants to 3 per cent. and if we should fail in the attempt, I am sure the world will have better reason to suspect the wisdom of our conduct, or the honesty of our intentions. A man who never attempts but what appears by the event to be within his reach, is certainly a wiser man, though not perhaps a a man of so much courage, as he who aims at extraordinary heights, and falls headlong from the precipice. By making such an attempt, and failing in that attempt, we may very probably be like those vapourish ladies, who fancying themselves ill, swallow draughts and boluses, till they have actually thrown themselves into a distemper much worse than the imaginary.

Then, Sir, as to the prejudice which may accrue to private men, I am surprised to hear it said, that no such thing can be apprehended; for, in my opinion, it is inevitable, whether we succeed or not. If we succeed, the annuitants will certainly lose 5*s.* in the pound, of their present revenue; but it seems this loss is to be made good to them by abolishing some of our taxes. Are gentlemen serious when they talk so? What would any annuitant say to a man who should tell him, Sir, we must take 5*s.* in the pound from your present revenue, but in lieu of that, you shall have candles an halfpenny or a penny in the pound cheaper than usual? Would not any man take this as a banter? Suppose again, which I think by much the most probable, that we should not succeed; such an attempt would certainly diminish public credit: it would make many, both natives and foreigners, resolve not to trust their money longer in our funds. It would make them begin to think of employing their money somewhere else, in order that they might take the benefit of selling out, before the price should be diminished by the reduction of interest. This would of course lessen the advanced price of every one of our funds; and would not this be a prejudice to every one of the present proprietors, especially to such of them as have lately purchased? I do not now argue from supposition only; I argue, Sir, from certain fact, from present experience: do not we see that all our public funds have fallen in their price since this affair was first brought before us? And if an immediate fall of stocks has been the effect of its being mentioned, what consequence can we expect from its being agreed to?

I cannot conclude, Sir, without taking notice of the great endeavours that have been used, both within doors and without, to raise our compassion, by representing the deplorable state of our poor labourers

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and manufacturers, and that the reduction of interest will enable us to give them an immediate relief. For my part, I cannot think their state near so deplorable as it has been represented; for we have no heavy taxes upon any of the necessaries of life: all our heavy taxes are laid upon the luxuries of life; and cannot therefore affect a poor tradesman who has a mind to live frugally, and not to indulge himself or his family in the use of things, that are not absolutely necessary for their subsistence; and the few small taxes we have upon some of the necessaries, or rather conveniencies of life, are such as our people have been long accustomed to, and not so heavy, nor collected in a manner so grievous, as such taxes are in France or Holland. But supposing it were otherwise, I have shewn, that by a reduction of interest we could not abolish any of our present taxes without subjecting the nation to a greater and more dangerous inconvenience, I mean the putting off for a longer term the entire discharge of the national debt; and if by a reduction of interest our trade should be diminished, which may probably, as I have already shewn, be the consequence, especially in and about the city of London, then many of our poor labourers and manufacturers would be ruined, instead of being relieved, by a reduction of interest; consequently all the compassion that can be pleaded in the present case, must operate strongly agair st a reduction, and in favour of the many poor widows and orphans, who certainly would be irretrievably undone by the great reduction proposed.

I must confess, Sir, I cannot well comprehend the meaning of that distinction, usually made upon this occasion, between the public and the creditors of the public. By the public I always mean the collective body of the people of this nation; and as our creditors are a part of our own people, as those foreigners who have trusted their fortunes to our faith, will, I hope, be always looked on as such, and treated in the same manner with our native creditors, therefore I shall always look upon the creditors of the public to be a part of the public, and shall always think, no injury can be done to them, without injuring the public; I believe they cannot so much as be subjected to any inconvenience, but what will at last prove to be an inconvenience to the public as well as to them; and, I hope, it will be granted, that the taking one fourth part of their revenue from them, would at least be a great inconvenience; in my opinion, it would be a great injury to every one of them. We have had lately great complaints of the inequality of the land tax, and of the injustice done to the landholders, by subjecting them to that burden for so many years together; for which reason one of those taxes, which most certainly and most generally affect the poor, was lately revived, in order to free the landholders from a shilling in the pound for one year only. The prevailing doctrine then was, and it is but a few years since, to impose such taxes as might fall equally upon all; but now, it seems, we are to lay a tax of five shillings in the pound upon that part of our people, who have the misfortune of being creditors to the public, in order to free the nation from some of those small taxes it now pays, and has paid for many years.

From all which, I think, Sir, it will appear, that the proposition now before us will be of the most dangerous consequences to our trade, to our land-holders, to the cities of London and Westminster, and to our people in general; that it can be attended with no considerable public advantage, and that it will be a great injustice done to our public creditors; therefore, I shall think myself fully justified in giving my negative to the question.

The Reply was to the effect as follows:

Sir; I shall not suppose, that any of the gentlemen who seem to be against this question, are conscious of their being in the wrong; but, I must say, that with respect to some arguments they have made use of, they treat us as those people generally do, who are conscious of their having the wrong side of the question. They state the case quite different from what it is, and then triumph in the arguments or authorities they bring against it. By this means Mr. Locke has been brought into the present debate, and brought in too as a favourer of an opinion against which he has expressly declared. Immediately after the revolution, our government began to borrow large sums of money for supporting the expence of the war, which they found they could not procure but at a very high interest. This gave foundation for a project, in the year 1691, for reducing the legal rate of interest at once, from 6 to 4 per cent. in order, as it was vainly imagined, to enable the government to borrow money for the public service at a cheaper rate than what they found they could otherwise do. As the natural interest of money was

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then greatly increased above what it had been for some years before, by the large sums borrowed for public service, every man of sense saw that this project would prove abortive, and that it would very much disturb, if not entirely ruin, the trade of the nation; and Mr. Locke, among others, not only opposed, but wrote against it.

Is there now, Sir, any question before us for reducing the legal interest of money? Is there any thing in the proposition that seems to have the least tendency that way? No, Sir; the only question now before us is, whether or no the public shall endeavour to take advantage of the low rate to which the natural, not the legal, interest of money has fallen? And one of the arguments made use of in favour of this question, is, That it would tend to the bringing the natural interest of money between man and man, in this nation, down to a par with what it is in those countries, which are our greatest rivals in trade and naval power. Then, and not till then, it has been said you may safely venture to bring down the legal; and it has been said, I think demonstrated, that the bringing down the natural interest of money between man and man, would be an advantage to our trade and manufactures, and a certain cause of great improvements in our land estates. Mr. Locke is expressly of this opinion. His words in that very treatise are, "All the danger lies in this, That our trade shall suffer, if your being behind hand has made the natural use so high, that your tradesman cannot live upon his labour, but that your rich neighbours will so undersell you, that the return you make will not amount to pay the use, and afford a livelihood. There is," says he, "no way to recover from this, but by a general frugality and industry; or by being masters of the trade of some commodity, which the world must have from you at your rate, because it cannot be otherwhere supplied." These are his words, Sir; and I appeal to every man, whether he can think it frugality in the public to pay 4 per cent. when they can have money at three? Whether the giving a man 4 per cent. when he can live upon, and would be obliged to take 3, can make him more frugal, or promote a general frugality? And whether the enabling a great number, even of your meaner sort of subjects, to live idly upon the interest of their money, can be a proper method for introducing or restoring a general industry?

Fear, Sir, may be extravagant and ridiculous, as well as courage, and such I should think that fear to be which should prevent a man from borrowing, or attempting to borrow money at 3 per cent. for clearing himself of a mortgage at 4; especially when he is certain, that should he be disappointed in the attempt, his old mortgagee would be glad to continue his money upon the mortgage at 4, because he could not have so high an interest or so good security, any where else. If a man had 20 mortgages upon his estate of 1,000*l.* each, at 4 per cent. and a gentleman should offer to lend him 1,000*l.* at 3, could he in prudence refuse it? Would not common prudence direct him to make use of that offer, for reducing every one of his old mortgages to 3 per cent. and applying it at last to the redeeming of him who should appear the most stubborn? Could there be any danger in this, if he were certain that none of his mortgagees, or not above one of them, could employ his money to a better use upon any security equally certain? This Sir, is our case at present. The reduction of interest may, perhaps, force some people into trade, or to lend upon private security; but I am certain there is now a much greater sum ready to be lent at 3 per cent. than would be sufficient for replacing all that could be that way drawn out of our public funds; because no extraordinary profits can be made by any trade, and a very small sum would bring the rate of interest upon any certain private security down to 3 per cent. And we have this further security for encouraging us to try the experiment, that, should I be mistaken in my opinion, all our present creditors would be glad to continue their money in our funds at 4 per cent. as we may with the greatest certainty conclude from the advanced price of all our funds.

If I did not know, Sir, how much the generality of mankind are blinded by what they think their private interest, if I did not know how often they are by private interest misled in their judgments about what they take to be the public interest, I should be surprized to hear it questioned, that the lower the interest of money is in any country, the more their trade will thrive, the more their lands will be improved. It is a maxim so long established, and so generally acknowledged, that I cannot think there is much occasion for adding to what has been said upon that subject; but that no man may be misled I must beg leave to answer, in as brief a manner as I can, what has been said in support of the contrary

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opinion. Low interest, I shall grant, is not the cause, but the effect of a flourishing trade; and the trade of a country may prosper and increase, though their rate of interest be high, with respect to what it is in this kingdom at present, providing their rate of interest be no higher than it is in those countries which are their rivals in trade; but this I will say, that the trade of no country can thrive or continue, if the natural interest of money among them be higher than it is in those countries which are their rivals, unless those rivals forcibly expel their trade by some ridiculous public measures. The trade of Flanders was once in the most flourishing state of any in Europe, and then the natural rate of interest was certainly lower among them, than it was in this kingdom; but the sovereign of that country began at last to lay such heavy taxes upon their manufactures and people, a rock we should take care not to split on, that many of their rich merchants and most skilful manufacturers came over and settled in England, which gave the first rise to the trade and manufactures of this kingdom. This advantage was greatly improved indeed, by the wise conduct of Henry 7, Henry 8, and Queen Elizabeth, especially the latter, and was at last fully established by the ridiculous conduct of the Spaniards in the Netherlands; so that our trade owes its origin, not so much to the beauty of our constitution, or the wisdom of our conduct, as to the ridiculous and oppressive measures of our neighbours; for it is always with regret that merchants or tradesmen leave their own country; indeed when they are forced to it, they will certainly retire to that country, where they are surest of being free from that oppression or uneasiness, which made them fly from their native land; and our happiness at that time was, to have a peaceable country, and a wise administration, which made them chuse to take refuge here, rather than in any neighbouring country.

This, Sir, would of course have brought down the natural interest of money in this kingdom, long before the end of queen Elizabeth's reign; but in the mean time our people began to trade to the East Indies, and to make settlements in the West Indies; by both which the profits were so great, that vast numbers were tempted to engage in the trade, and to borrow money at any rate, to be employed in those branches of trade, not only in this kingdom, but in all the other trading parts of Europe; so that, though the interest of money here was then high, in respect to what it is at present, yet it could not then be called high, because it was no higher than it was among our rivals in trade, and could not, therefore, lay our people under a disadvantage in carrying on any branch of trade or manufacture.

Thus, Sir, we may see, that a great prosperity of trade may be the cause of keeping up for some time the rate of interest; because there is then a great demand for money at interest, in order to be employed in trade; and for the same reason, the declension of trade may, for some time, be the cause of sinking or lowering the rate of interest; because, when the trade of any country, by accident or bad measures, is laid under such disadvantages, that their merchants and tradesmen cannot carry it on to a reasonable advantage, no man borrows money to trade with: but, on the contrary, those merchants and tradesmen, who have got any sufficient sum to live on, draw their money out of trade, in order to lend it at interest, or to employ it in the purchase of land; which lowers the natural interest of money, by increasing the demand for lending, and lessening the demand for borrowing; and it likewise raises the price of land, by augmenting the demand for purchases. But these two effects have very different consequences; for in the first case, the stock of ready money in the country being every day increasing by the prosperity of trade, the natural interest of money will soon begin to fall, and will at last come to be extremely low; whereas, in the last case, the decay of their trade and manufactures will certainly at last turn the balance of trade against them, and from that time their stock of ready money will begin to decay insensibly, the natural rate of interest will rise by degrees, the rents of their estates, and price of their lands will fall, the numbers of their people will diminish daily, either by their going abroad, or starving at home; and unless they change their measures, there will at last come to be little or no money left among them; nothing will remain but barter and paper credit, and the nation will in the end be certainly undone. From hence it appears, that the natural rate of interest, considered by itself only, is a very bad rule for judging of the trade of a country; because, like a consumptive person, a nation may look well to all outward appearance, the natural interest of money may be lower than ever it was,

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and may continue so for some time, and yet that nation may be in a galloping consumption, which I wish may not be our case at present.

I am surprized, Sir, to hear it said, that the view of getting a high interest, or any interest, for money, is what makes a poor man labour and fatigue more than is necessary for his daily subsistence. What makes a labourer, or a journeyman do so, is the hopes of getting and saving as much as may set himself up as a master; then he gets and saves money, in order to enable him to extend his trade, and to carry it on with the more ease; he never thinks of lending his money at interest, until he has got more than he can employ in his trade, or as much as may maintain him without any care or trouble; and in both cases, he is forced to take what interest he can get for it. Then as to our merchants and shopkeepers, who generally begin with a little money, they engage in trade generally because they cannot live upon what interest they can get for their money, or at least cannot live as they would desire; and as their stock increases, they increase their trade; they never think of lending money at interest, till they have got more than they can employ in trade, or as much as may maintain them in an idle and indolent way, and then they, as well as others, are obliged to take what interest they can get.

But suppose, Sir, the getting of a high interest for money, and subsisting upon that interest in their old age, was the only motive for people labouring, or engaging in trade, are there any bounds to be set to people's hopes? Do not we know that every man hopes to get more by any trade or project than he generally meets with, often more than he can reasonably expect? And shall we say that a man in his youth, when hopes are most sanguine, may expect to get 3,000*l.* or 300*l.* but cannot expect to get 4,000*l.* or 400*l.* and will therefore despair of being ever able to get what he may think a comfortable support for old age? This is so much contrary to the nature of mankind, that it is in vain to think of building any argument upon it. On the contrary, as every man must get a larger sum before he can retire to live upon the interest of his money, when interest is low, than when it is high, every man will labour with the more ardour and assiduity, and numbers of people must be bred up to trade, and must engage in it, when interest is low, who would be bred up, or would chuse to live like drones in the society, upon the interest of their money, if the common rate of interest were high; and the greater stock of money a man has to trade with, the less profit he may sell at, and consequently the more able will he be to undersell foreigners, and to improve the trade of his country. To this we must add, that a rich merchant or tradesman may retire much sooner from business, in order to live upon the interest of his money, when interest is high, than he can do when interest is low; for I must observe, it is seldom or never necessity but choice, that makes a rich man retire from business: No man can grow rich by the mere labour of his hands, at least not so rich as to be able to live upon the interest of his money; a man must be a merchant or master tradesman, before he can get so much money, let interest be as high as it will; and as such business is carried on by the labour of the head only, the common infirmities of old age never render a man incapable of carrying it on; quite otherwise, by his knowledge and experience he probably becomes more capable than he was when young and healthful. Therefore we must conclude, that a high interest for money not only prevents the youthful rich from engaging in trade, but makes the wealthy old leave it off, both which must be hurtful to the trade of any country.

"To tell us, Sir, that the Dutch being by nature more penurious than our people, therefore a less interest may encourage their people to labour, and engage in trade, is certainly mistaking the effect for the cause; for one of the principal causes of the penuriousness as well as industry of their people, is the lowness of their interest. Mankind are by nature generally the same; a Dutchman, by his make, or constitution, has nothing can make him more penurious than an Englishman. It is by laws and customs, the humours and inclinations of a people are formed, and it is the business of every wise nation to invent or adopt such laws and customs as may propagate virtue, industry, and frugality among the people. The penurious nature of the Dutch is therefore an argument in favour of what is proposed, instead of being an argument against it; and the circumstances of that country, with respect to the proportion between their money and land estates, will appear to be an argument of the same sort. I shall admit we have a much greater de-

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mand for borrowing money at interest upon land estates, than they have in Holland; but is it not therefore our business to take all possible methods to diminish that demand, or increase the demand for lending money upon such securities? If we can reduce the interest payable upon the public funds, we shall be able to abolish some of the taxes which eat up the landed gentleman's estate, by increasing the expence of his family; or we shall be able to pay off our debts sooner; if we take the former of these methods, we shall diminish the demand for borrowing money upon such securities; if we take the latter, we shall more quickly increase the demand for lending money upon such securities; and as soon as the proportion between these two demands comes to be the same in this country with what it is now, or may then be, in Holland, will not our circumstances be in that respect the same?

Now, Sir, with respect to extravagance; it is true, the extravagance of some few men may be increased, or longer supported, in a country where interest is low; but in such a country there cannot be such a number of extravagant men in proportion, as in a country where interest is high, because extravagance generally proceeds from an idle education; and as there cannot be such a number of persons bred up to idleness, in the former, as in the latter, therefore we may depend on it, the extravagant will be much less numerous, and consequently more despised, in the one, than in the other; and the contempt these people meet with, will be a much more effectual curb upon their extravagance, than the highest rate of interest could be; from whence, I think, it is certain, the reducing of interest is one of the most effectual methods for restraining the luxury and extravagance of the people in general; and my argument is confirmed by experience, for in countries where the interest of money is high, their people generally live either in the utmost penury and want, or in the height of luxury and extravagance.

The only tolerable plea, Sir, for that distinction, which gentlemen have been pleased to make between a too high and a too low interest, is, that if men cannot get what the gentlemen have been pleased to call a moderate interest for their money, they will lock it up in chests, or hide it in the earth. This is an argument which has often been made use of, but in my opinion without any foundation; for in peaceable times we know that no private man will keep his money by him, but will rather lodge it in some bank or banker's hands without any interest; because in such hands it is secured against pilferers, thieves, and robbers, which it cannot be in his own habitation. Indeed, in times of civil war, many men may perhaps hide their money in the earth, because it cannot then be secure, either in the house of any private man or public bank; but such an extraordinary case can be of no weight in the present debate; and if much larger sums should be lodged in the hands of any banker than he had use for in circulation, he would certainly lend it at 1 per cent. nay at a ½ per cent. if he could no way turn it securely to any better account; either of which is lower than the natural interest of money ever yet fell to in any country. However, for argument's sake, I shall suppose money become so plenty in a country, that none of their own people will give any thing for the use of it: in this case, it is certain, their bankers would fall upon some way of lending it to foreigners, which would be an annual advantage to the nation; and if even this were found to be impossible, if every man had as much money at command as he had use for in his trade or business, what harm could ensue to the nation, if all the rest of their money were locked up, and the owners obliged to pay warehouse room for it, as they do for any other useless and unvendible commodity.

From what I have said, Sir, I think I may justly conclude, there is no such thing as a too low natural interest of money; and therefore, with respect to the natural interest of money in general, there can be no such thing as a moderate rate. It is a term to be made use of only when we talk of the common interest in different countries, or of the interest paid by different private men; and as that man who has money at the most moderate, that is to say, the lowest rate of interest, is the happiest and most thriving man, so that country were the common interest is at the most moderate or lowest rate is the happiest and most thriving country. Therefore, every nation ought to endeavour as much as possible to bring down the common rate, I mean the natural, not the legal rate of interest, among them, in order, as Mr. Locke has well observed, "That their rich neighbours may not be able to undersell them;" which they certainly can and will do, if they can borrow

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money at a less interest; as was, I think, fully demonstrated by my worthy friend in the beginning of this debate; and the supposition he then made, that a man will always expect to make by any trade double what he pays, or may have, by way of interest for the money employed in that trade, was so far from being extravagant, that I rather think it was too modest; for in carrying on any trade or business in partnership, where one contributes only his skill and industry, and the other the whole stock necessary for carrying it on, there is nothing more common than an agreement to divide the profits between them, though he who furnishes the stock generally runs the whole risk; therefore I think it is but reasonable, that a man who borrows money at interest for carrying on any trade or business by his sole skill and industry, should have as great a share of the profits as he who lends his money without running any risk; for in such cases, the lender has always the borrower's obligation, and sometimes a pledge, or some other collateral assurance, for securing the repayment of the money with a certain profit, come of the trade what will. And if a man employs his own money as well as his skill and industry, he will certainly expect, besides the common rate of interest for his money, as great a reward at least for his skill and industry, as he who has no money could expect; for we always find that the richer a man is, the greater value he puts upon his skill and industry. From which considerations I must conclude, that 8 per cent. per annum is the least overcharge we can reckon upon our manufactures at every foreign market, above those of the same kind and goodness, which are carried thither from Holland, or even from France.

With respect to the latter, it is true, Sir, the legal interest is there as high as in this country, but the natural interest of money between man and man, is, by the best information I can have, at a much lower rate. In France they have the bad or the good fortune not to have much public credit. Their public funds are below par, even reckoning the interest at 5 per cent. and the government can never borrow at that rate; but if I am rightly informed, there is a great plenty of money to be lent upon private credit, and even upon personal security; insomuch that the brokers or scriveners in that country are continually employed by the lenders to seek out for the borrowers, the consequence of which is, that a merchant or manufacturer may there borrow money for a long term below the legal interest, and upon his personal security, or perhaps getting another to join with him, and Bills are often discounted at the rate of 3 per cent. both which are a great advantage to the trade of that kingdom, especially the former, because it encourages merchants and manufacturers to launch out upon any project of trade, much beyond their own proper stock of ready money. In this country it is quite otherwise. Our public credit is much better than our private; for if we except the discounting of Bills, which is transacted between merchant and merchant, or between a merchant and his banker, there is hardly any private credit, properly speaking, in the nation: I say, properly speaking, because when a mortgage or pledge is given, there is properly no credit given to the borrower. We have hardly any such thing, especially here about London, as money lent for a long term upon personal security at 5 per cent. and even most Bills, I am afraid, are discounted at a premium much above that rate. I believe I may appeal to all the brokers and scriveners about London, if they are ever applied to by any lender of money, to find them out a person who will borrow their money upon personal security at the legal interest. This makes it impossible for any man to launch out upon the most hopeful project farther than his own stock of ready money will reach; because, if he should by good luck find a friend to lend him money at the beginning, that friend may die, or may have occasion for the money, before he can spare it from the trade he has undertaken; in which case he must be entirely ruined, unless he can meet with such another friend, which it is ten to one if he does.

By this we may see the great advantage the French have over us, by means of the low natural rate of interest, and great plenty of private credit in that country. It is true, the advantage this way is not, I believe, equal in France to what it is in Holland; but in France it is, I reckon, equal to four per cent. per annum at least, which is sufficient to destroy every branch of our trade in which they can rival us. And as to the conveniency of their ports, I am surprised to hear it said we can carry on any trade in the Mediterranean, so cheap or so easily, as the French can do at their ports of Marseilles and Toulon; or that we can carry on a trade with Portugal, or

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1361-10 Geo. II.

any part of Spain without the streights, so cheap as the French can do from their ports on the bay of Biscay. Then as to our own wool, I wish with all my heart we could render the exportation of it impracticable; but, I believe, the only effectual way of doing so is, to enable our manufacturers and merchants to work it up at home, and sell it so wrought up in foreign markets, as cheap as such manufactures can be sold by any of our neighbours; for if we should once lose the sale of such manufactures at foreign markets, we cannot make use of all our wool in working up manufactures for home consumpt; and if we cannot work it all up at home, it will, like Spanish gold and silver, find its way out, in spite of the severest laws, and the greatest care we can take for preventing it. Our laws will then serve only for running down the price upon the farmer; for as he must sell, if he cannot find a buyer at home, he must take what price he can get from the smuggling exporter, who in that case will be sure to make the farmer pay for the risk he runs in exporting.

Now, Sir, as to taxes, I shall grant, the taxes both in France and Holland are extremely heavy, but I doubt much if they are so heavy upon, or so inconvenient to trade, in either of these countries as in this. I know it is generally thought the Dutch have great taxes upon trade, and heavy excises; but, properly speaking, they have neither the one nor the other. Their taxes are all upon the consumpt, and are generally raised, not at the time of importation, but upon their being carried to market and sold for retail or consumption in the country; for as every province, and every city or town is a sort of sovereignty within itself, and raises, as well as imposes, most of the taxes and duties paid by the people, goods, upon importation, pay but very small duties or rather fees; the high duties are all paid upon their being brought into any of their cities or villages for retail or consumption; and the nature of their country makes it easy for them to raise those duties without sending officers into every retailer's shop, or subjecting their people to what we call the laws of excise. I need not descend further into particulars; it will be easy from what I have said, to see that the taxes in Holland cannot be so troublesome or expensive to the merchant or importer, or to the retailer, as the taxes in this country; and if we examine into the taxes imposed by their several little sovereigntics, we shall find, great care has been taken not to impose any tax which may enhance the price of their manufactures. In France again they are subject to great inconveniencies with respect to smuggling, as well as we; but except their Taille, I do not know that they have any tax so troublesome to the people as our excises are. Their Taille, indeed, is suited to the nature of their monarchy, it is arbitrary; but then their gentlemen are not subject to it, nor have they any land tax, but in time of war, and even then it is but two shillings in the pound. As for their other taxes, there are, I believe, none of them, except that upon salt, so high as the like taxes in this country; nor have they so many of them. They have no tax upon light, heat, or air; I mean, they have no tax upon candles, upon firing, or upon windows, so far as I have ever heard; nor have they any tax upon soap, because they know it is a material necessary for every sort of manufacture. Even upon wine they have no tax, unless it be brought into some city for sale; and therefore, in villages and country places, their people may drink the best of French wines as cheap as our people can drink common beer; and small wines they may have almost as cheap as our people can have small beer.

But, Sir, without taking any notice of such particulars, we may be assured, that the people of this kingdom are more heavily taxed than the people of France, only by comparing the total amount of the public revenues in France with the total amount of the public revenues here at home. In France the total yearly amount of the public revenue is computed to be about two hundred millions of livres, which is but a little more than nine millions sterling; and let any man look back upon the annual resolutions of our Committee of Supply, and add to that the real produce of the Civil List Revenue, and the produce of that revenue which is appropriated to pay the interest and principal of our debts, he will find, that in Britain alone, I may say in England alone, we have for many years raised above six million yearly, and often above seven; which is above two thirds of what is raised in France yearly; and, I am sure no man will say, that in the whole kingdom of France, there is but one third more people than in England alone. From hence, Sir, proceeds the dearness of la-

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bour, and of provisions in England; it is not from our having a greater plenty of ready money; for if ready money were more plentiful in this country, than in France, the natural interest of money would be lower here than it is there.

When I consider these things, Sir, and when I compare the present state of the trade of Europe with what it was forty years ago, I am really astonished to hear it pretended, that the trade of this nation is in as flourishing a condition as ever it was. Forty years ago, we had no rival in the East-India trade but the Dutch; now there is hardly a nation in Europe but interferes with us in that trade: then, the French had little or no trade in Turkey, Spain, or Portugal, nor exported any woollen manufactures to either: now, they greatly interfere with us in every one of them, and export to each, great quantities of woollen manufactures. Then, we had no rivals in the sugar trade; now, the French not only interfere with us, but, I am afraid, have out-done us: Is not every country in Europe now setting up manufactures of all kinds; and, consequently, can we say it is possible for us now to find such a sale for our manufactures as we found at that time? In short, Sir, if it were not for our colonies and plantations in the West Indies, and the exports we are enabled to make by their means, I am convinced, the general balance of trade would be entirely against us; and if that should ever come to be our case, as we have no mines of gold or silver, we should soon have very little of either of these metals amongst us; the consequence of which would be, a stagnation of all sorts of trade and manufacture, and the departure of most of our mechanics and tradesmen.

It is with regret, Sir, I have taken so much notice of our circumstances, and the melancholy consequences they may be attended with; but some people are so apt to ascribe every thing that has happened, or may happen, to the luxury, extravagance, and idleness of our people, that I thought myself obliged, in justice to my countrymen and fellow-subjects, to shew that, if any notable misfortune does happen to us, it will not proceed from their luxury, extravagance, or idleness, but from the difficulties they are exposed to, by means of the interest of money's being higher, and the taxes heavier, in this country, than in those which are our rivals in trade and naval power; and as I have done it with the sole view of shewing the proper and the only methods for extricating ourselves out of those difficulties, I hope every man who has a true regard for his country will excuse me.

That the lowering of interest raises the price, and encourages the improvement of lands, is a maxim so generally received, and was so clearly demonstrated by my worthy friend in the beginning of this debate, that I am almost ashamed to add any thing farther upon the subject; but, Sir, I must beg leave to answer some of the objections made against it. As to the price of lands, it must necessarily fall or rise, very near in proportion as the interest of money rises or falls; because, if a man can make a great deal more annual profit by purchasing lands, than by lending money, every man will purchase, no man will lend; which must of course raise the price of lands, as well as the natural interest of money, till they come near upon a par with one another. And surely the raising the value of a man's estate must add to his riches; for no man sells in order to employ his money at interest, unless upon a sudden rise of the natural interest of money, as happened to be the case, immediately after the Revolution, occasioned by the great sums then borrowed at a high interest by the public. What makes a man sell, is generally to pay off a mortgage, or in order to divide his estate among his children; in either of which cases he has a great advantage by the rise of the common price of lands. A man who has 10,000*l.* mortgage upon 1,000*l.* a year estate, must sell a moiety of his estate to pay off that mortgage, when interest is at 5 per cent. and lands sell at 20 years purchase; but if interest should fall to 2½ per cent. and lands should of consequence come to sell at 40 years purchase, which I am told is now the common price in some parts of Italy, the landed gentleman might then clear his estate of the mortgage, by the sale of one fourth part of it. And if a man sells his estate to divide it, I shall suppose, among four children; surely a son in trade with 10,000*l.* or a daughter with 10,000*l.* and married to a merchant, may push any trade further, and consequently be more beneficial to themselves as well as to their country, than if they had but 5,000*l.* each. Nay, if it be necessary, that gentlemen in England must always be called, or deserve the name of idle men, as they are called in Holland, such a gentleman will have the same revenue out of 10,000*l.* when interest is at 2½ per cent. as he could have in the same

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the way from 5,000*l.* at 5 per cent. interest.

As to the improvement of land, the only objection that has been made to it, is, that the price of labour and materials, fit for improvement, will rise in proportion to the fall of interest; but this, Sir, will not hold; for the price of nothing that can be imported will rise in proportion to the fall of interest; the only reason why the price of land rises in that proportion, being, because they cannot be imported. As to labour, whenever its price begins to rise, workmen and labourers of all kinds will flock in upon you from countries where labour is cheap; and as to all sorts of materials and provisions, since they may be imported from other countries, your home produce can never sell for more than such commodities can be imported and sold for; unless you should prohibit, or load with duties, the importation of those materials or provisions, which are necessary for the improvement of your lands, or the subsistence of your poor, which no nation, surely, will ever be mad enough to do.

After having heard such established maxims in trade controverted, I hardly believed the gentlemen of the other side of the question would have admitted any thing in this debate; but, I find, Sir, they do admit, that by the reduction proposed, the nation may get rid of debt three years sooner, or may abolish some of our most heavy taxes, and yet get entirely rid of debt almost as soon. However, they have endeavoured to vilify this advantage as much as possible, and, therefore, I must give you the trouble to hear it stated in its true light. In order to do this, I must observe, that every tax laid upon any commodity, raises the price of that commodity a great deal higher than the value of the tax laid upon it; because the merchant or retailer must be paid for the risk and interest of that money which he pays for the tax, as well as of that money which he pays for the prime cost of the commodity: And I must likewise observe, that the expences of collecting every tax are all paid by the people; so that upon all our customs and excises in general, I may compute, the people pay about one third more than the net produce brought in to the public. Now as the interest now paid yearly upon all our public debts, and the Sinking Fund together, amount to above three millions yearly, I must reckon, that towards raising this net sum, the people pay yearly four millions; so that if by reducing the interest upon all our public funds to 3 per cent. and continuing all our taxes till the whole be paid off, the nation do get entirely rid of debt three years sooner than we can do if the interest be continued at four, our people will save the value of this Annuity for three years; and as an Annuity of four millions for three years at 4 per cent. compound interest, amounts to 12,486,400*l.* we must reckon, that by this reduction, the people of this nation will save that whole sum; a saving which, I hope, will not appear inconsiderable, however trifling the three years difference, as to the time of getting entirely rid of our debts, may appear.

But suppose, Sir, that upon the reduction of interest, we should abolish taxes equal in yearly amount to that annual saving. As the amount or yearly produce of the taxes upon soap and candles comes nearest to this saving, I shall suppose them to be abolished. These two taxes produced in the year ending at Midsummer last, about 365,000*l.* net; so that, including the expences of management, I reckon there was about 400,000*l.* raised upon the people; and as the advanced price upon both these commodities is reckoned near double the value of the tax laid upon them, I am sure, I may reckon, the people pay at least 600,000*l.* a year, on account of these two taxes; which is an Annuity they are to get free from by this reduction 25 years sooner than they can do, if interest be continued at 4 per cent. But an Annuity of 600,000*l.* a year for 25 years, at 4 per cent. compound interest, amounts to 24,987,540*l.* In this case, as the nation will continue in debt two years and a half longer than if things should continue upon their present footing, we must deduct from this sum the Annuity, which the people are to pay for that time; which Annuity will consist of the present Sinking-Fund, being about 1,150,000*l.* and the interest upon our present debt at 3 per cent. being about 1,440,000*l.* supposing our debts to amount to 48 millions. These two sums added together make 2,590,000*l.* to which add a third more, and it makes above 3,450,000*l.* which is the Annuity the people are to pay for two years and a half longer than they would otherwise do; therefore, as I have said, this Annuity for that time at 3 per cent. compound interest, being near 8,730,000*l.* must be deducted from 24,987,540*l.* and the remaining sum, which is above 16,250,000*l.* is the sum our people will save by a reduc-

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tion of interest, and immediately abolishing the taxes upon soap and candles; and this saving will, I hope, be looked on as a sufficient atonement for our continuing two years and a half longer in debt.

I beg pardon, Sir, for making so much use of calculation, but upon this subject it is impossible to argue without figures, and as there is nothing mysterious or uncommon in the calculations I have made use of, I hope gentlemen will forgive me; for from these calculations the advantage the nation will reap from the reduction only, is made manifest beyond contradiction: and now I shall examine the pretended disadvantages. In the first place, we are told, our noble families and landed gentlemen must ruin their estates, in order to provide for their younger children; as if it were absolutely necessary the younger children of all landed gentlemen should be bred up to idleness, in order to live like fine gentlemen and ladies upon the interest of their money. Sir, this is so far from being necessary, that we certainly ought to prevent it, if possible; and the only way of preventing it is, to lower the common rate of interest: the younger son of the best nobleman in the kingdom may make as good a figure, and I am sure may be much more serviceable to his country, by being bred up a merchant, than by being bred up to follow plays and operas in town, or fox-hounds and horse-matches in the country. But, suppose that every landed gentleman should be obliged to give his younger children greater fortunes; if he is frugal, and has a mind to provide for them by a narrow way of living, he will save a great deal more yearly in the expence of his family, by the abolishing of some of our most heavy taxes, by which he will be enabled to give them greater fortunes. If he has a mind to leave them a mortgage upon his estate, a proportionable addition to their fortunes will be no additional burden upon his estate; for as the total value of his estate must increase in proportion, and the yearly value likewise may probably be much improved, a mortgage of 20,000*l.* for younger childrens portions, when interest is reduced to 3 per cent. and the price of lands raised to above 33 years purchase, will be no greater burden upon an estate, as to the total value, than 12,000*l.* is, now that interest is at 5 per cent. and the price of lands at 20 years purchase; and as to the interest money, surely 600*l.* a year, the interest of 20,000*l.* at 3 per cent. can be no greater charge upon the improved rent of an estate, than 600*l.* a year, the interest of 12,000*l.* at 5 per cent. upon the present rent of the same estate, without any improvement.

To pretend, Sir, that all branches of trade are, or can be overstocked, is a very great mistake, and a very dangerous mistake, if it should ever obtain so much credit as to influence the public measures of a country; for no sort of trade or business relating to the exports of a country can be overstocked; but on the contrary, the more there are of every such trade or business, the cheaper the commodities they manufacture or deal in will be sold in foreign markets; and the cheaper they are sold, the more of them will be sold, the more certainly will you prevent foreigners from interfering with you in the trade; which will always be a benefit to the nation in general, though not so advantageous to the particular persons concerned. I shall suppose, for example's sake only, that the original materials of a hat sold beyond seas for a guinea, do not cost above 7*s.* and that the other 14*s.* are divided between the workmen for their labour; the master-manufacturer for his profit, and his trouble in employing those workmen; and the merchant-exporter, for his profit, and trouble in exporting: if you should, by increasing the number of workmen and dealers in this way, bring the workmen to work for a 4th part less wages, and the master-manufacturer, and merchant-exporter, to deal for a 4th part less profit, that hat would then be sold in a foreign market for 17*s.* 6*d.* and if by selling so cheap you shall engross the market, you would probably sell two hats for every one you now sell; so that for every guinea now returned to the nation, there would then be 35*s.* returned, and double the workmen employed; with this additional advantage, that you would much more certainly preserve that trade than you can do at present. Thus it appears that the workmen and dealers in any such branch of trade can never be too numerous, and therefore, the trade can never be overstocked, unless we suppose it possible that one nation might have more of such dealers and workmen than would be sufficient to serve the whole world. It is true, all those professions and branches of trade not any way concerned in export, may be overstocked; but even with respect to them, the more there are the better, and the cheaper our people will be served; and when they are very much overstocked, those who cannot live by the business they

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were bred to, will seek for employment in some other way, and few or none of the rising generation will be bred to that sort of business; therefore the public has very little concern about the overstocking of any branch of trade; their care ought to be to force as many of their people into trade as possible, and then, like a good general of an army, to take special care that their enemies or rivals shall gain no accidental or artful advantage of them, in any branch of trade, in which they are or may be employed.

As to farming, I believe, there is no great danger that many of our gentlemen's sons would betake themselves to that sort of business, let us reduce interest to what we will; but if they should, it would not surely be a disadvantage to our landholders to have rich tenants, or to have more bidders for the leases of their farms. The richer the tenants are, the more able will they be to improve their farms, and the more punctually will the rent be paid; and the more bidders there are, the more easily may the landlord raise his rent; so that this is one of the strongest arguments for shewing that a low interest will naturally improve the yearly value of our land estates. Then as to the widows and orphans concerned in our funds, and who have nothing else to depend on for a subsistence; a widow or orphan who has 500*l.* annuity stock, will after the reduction have 15*l.* a year, and I cannot think any person that has 15*l.* a year certain, without labour or toil, can be reckoned an object of compassion, because there are many places in England where a single person may live comfortably upon such an income. But suppose 1000*l.* stock, which is double the income, if we examine the lists before us, we shall find many of the persons in those lists have something else to trust to; and if there were none such, the number of them can bear no proportion to the millions of poor that will be relieved by abolishing any one of our heavy taxes, nor ought it to be of any weight in our deliberations upon an affair in which the preservation of our trade is so essentially concerned.

Lastly, Sir, I must take notice of the great disadvantage, which, it is pretended, would accrue to the cities of London and Westminster, and the counties adjacent, by a reduction of the interest payable upon the public funds. If this reduction should happen to be general upon all our funds, it would amount to about 400,000*l.* a year; let us see now how this would affect the trade of the retailers, farmers, gardeners, and tradesmen, in and about the city of London. First we must observe, there is at least one 4th part of our funds belongs to persons who reside abroad; so that we must deduct at least 100,000*l.* from this 400,000*l.* and then there will remain but 300,000*l.* Next we must observe, that a great part, by far, I believe, the greatest part of our funds belong to persons who do not spend $\frac{1}{2}$, some not $\frac{1}{10}$ of the revenue they have from those funds; and some part of them belongs to persons who reside for the whole or greatest part of the year in distant counties; so that upon the whole, I believe, I may reckon there is not above $\frac{1}{7}$ part of this 300,000*l.* actually spent yearly in or about London: therefore the most we can reckon is, that, by this reduction, the inhabitants in and about London will lose the taking of 100,000*l.* a year, which they now take yearly from our stockholders for wares purchased out of their shops, farms, or gardens, or for work done; but as many of the wares purchased in their shops either come from abroad, or from the distant counties of Britain, therefore, I am sure, we may reckon the inhabitants in and about London will not lose of real profit or wages above 50,000*l.* a year. And as every man, who retrenches his expence, begins with that which is the most superfluous, we may presume this loss will fall chiefly upon our plays, operas, concerts, and masquerades; in which case, the industrious and useful part of the inhabitants will suffer little or no diminution in their present custom or business.

This, Sir, is the charge; and now let me turn to the other side of the account, according as it will stand by the proposition my worthy friend has made to us. He proposes, that if this reduction takes place, the duties upon Candles, Soap, Coals and Leather should be taken off. I shall suppose only the two first taken off; because these two alone will, I am sure, do much more than balance the account. I have already shewn that the people of England pay at least 600,000*l.* a year for Soap and Candles, more than they would pay if there were no such duties; therefore the taking off these duties will be a yearly profit of 600,000*l.* a year to the whole people of England; and as the cities of London and Westminster, borough of Southwark, and counties adjacent, consume more Soap and Candles than all the rest of the kingdom, or at least pay more than half of the yearly produce of the duties,

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we must reckon that the taking off of these two duties will be a yearly saving, and consequently a yearly profit, of 300,000*l.* to the inhabitants in and about London, as an atonement for the 50,000*l.* a year they are to lose by the reduction of interest, and thereby lessening the yearly revenue, and consequently the expence of our stock-holders.

But, Sir, as this saving may at first view appear a little extraordinary, I must trouble you with another computation, to shew that it is far from being imaginary. Let me suppose then, that in London, Westminster, Southwark, and the counties adjacent, there is but a million of people; 300,000 *l.* a year divided among a million of persons comes to 6 *s.* a year to every person, for his share of what is paid on account of the duties on soap and candles; so that a man who has six persons in his family, by this computation, is presumed to pay but 36 *s.* a year on account of these two duties; and considering that for every pound of candles he buys, there is 2*d.* laid out on account of the duty; and for every pound of soap he buys, or is brought on his account, there is at least 2½*d.* laid out on account of the duty; I believe this computation will not appear extravagant; for it is supposing him to consume but 10 or 12 dozen of candles, and 6 or 7 dozen of soap, which I think is the least we can suppose to be consumed by our shop-keepers and tradesmen, one with another, in their shops, kitchens, chambers, and working-houses. From hence it is evident, that the inhabitants in and about the city of London would gain 250,000 *l.* a year clear profit by the proposition now before us; and if to this we should add the yearly saving, and consequently yearly profit, that would accrue to them, by abolishing the duties upon coals and leather, I am amazed how any citizen of London, not deeply concerned in stocks, can disapprove of such a proposition; I am sure the honourable gentleman who made it, deserves their thanks in the most public and the most grateful manner.

The two ends proposed by this Scheme are, it is true, Sir, either to enable us to pay our debts off sooner than we can otherwise do, or to give an immediate relief to our people, by abolishing some of our most heavy taxes; but these two ends are proposed separately, or rather disjunctively, and not jointly, as the gentlemen of the other side of the question have represented; and that it will not be incompatible but necessarily effectual for one or the other of these ends, according as we shall chuse, the gentlemen themselves have acknowledged. When we have approved of the scheme, in so far as it relates to the reduction of interest, it is then time enough to chuse which of these ends we shall apply the saving to; but I cannot help now declaring my opinion, that we ought to apply that saving and something more, to the immediate abolishing of some of our taxes; not only because the people will gain more by an immediate relief from some of our most heavy taxes, than they can gain by a total discharge of our debts 3 or 4 years sooner or later, but because it is become absolutely necessary, if we have a mind to preserve our trade, to abolish some of our taxes, as well as to reduce the natural interest of money.

I have always been, Sir, and still am against applying the Sinking-Fund, or any part of it, to the current service; because I think such an application directly contrary to the intention of its establishment, as well as inconsistent with that justice which is due to our public creditors. The ultimate end and intention of its establishment was, to free the people from some of those taxes they were then subject to, and which were mortgaged for the payment of those debts contracted before December 25, 1716, and the only means of doing this was by paying off by degrees the debts, for which those taxes were mortgaged; but when you have paid off those debts, you have it certainly in your power, either to apply the saving made by such payment, to increase, for the future, the Sinking-Fund, or you may apply that saving to the ultimate end and intention of the establishment of that fund, I mean, the freeing of the people from some tax or other, whose yearly produce does not exceed the amount of the saving you have made by such payment. That this was the opinion of parliament appears from the almost unanimous resolution with respect to abolishing the Salt-Duty; for I do not remember that any gentleman then insisted upon the creditors having an indefeasible right, not only to the Sinking-Fund as it then stood, but to all the savings which might grow by the payments made to the public creditors; and that none of those taxes mortgaged for the payment of our public debts could be taken off or abo-

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lished by parliament, as long as there was a shilling due of those debts, for which the taxes were mortgaged.

But suppose, Sir, this had been then, or at any time since, my opinion, I am sure I have lately found very good reasons for changing it; for I am now fully convinced, the Sinking-Fund will never be duly and regularly applied, either to the payment of those debts contracted before the year 1716, or to the abolishing of any of the taxes mortgaged for that purpose: I am now by experience fully convinced, it is a fund which ministers in all time coming will be nibbling at; and I do not think I have any great reason to expect, that parliaments will be less complaisant to ministers in time to come, than they have been in time past. For this reason, Sir, I am so far from desiring to see the Sinking-Fund increased, that if any other possible method can be contrived for paying our debts honourably and fairly, I shall be for having it entirely abolished; because, I am afraid, it may hereafter prove a fund for running the nation into needless expences, oftener than it will prove a fund for discharging any part of our debt, or freeing the people from any of the heavy taxes they now groan under. And as I think the turning of a great part of our debts into annuities for life or years, or the sale of such annuities, and applying the purchase money towards paying off our debts as far as it will go, is the only way of paying off our debts honourably and fairly, and at the same time annihilating the whole or a great part of the Sinking-Fund; therefore, I most heartily join with my worthy friend in that part of his scheme which relates to the opening books of subscription for the sale of annuities, upon the terms he proposes; because these annuities will cease of course; and as soon as a sufficient number of them are sold, we may then order it so, that the taxes shall cease of course, and in proportion as the annuities shall cease or determine: whereas, if we continue upon the present footing, I am afraid the doctrine lately broached will prevail, that the nation ought always to be kept under its present load of debts, and the people under their present load of taxes; and that the Sinking-Fund will be generally diverted towards the current service, or towards discharging some debt lately contracted, in order to gain the false and empty applause for future ministers, that they have not laid any unnecessary loads upon the people or subjected them to any new and unheard-of taxes.

As for the practicability of the Scheme, I believe, Sir, That will sufficiently appear, by setting the gentlemen of the other side of the question right, in a mistake they have committed, with respect to the present natural rate of interest upon public securities. They have told us, that if the present rate of interest upon such securities were at 3 per cent. our Annuities at 4 per cent. ought to sell at $133\frac{1}{3}$, Bank stock at $183\frac{1}{3}$, and East-India at 200*l.* per cent. This calculation, I suppose, they take from this proportion, that if 3 per cent. gives 100*l.* 4 per cent. the present dividend on 4 per cent. Annuities, ought to give $133\frac{1}{3}$, and so for the rest in proportion to their respective dividends; but does not every gentleman see the error in this method of calculation? However, to make this error manifest, I must observe, that the price of every one of our stocks at par, is the price of an Annuity to continue till the principal be repaid; because the public stands obliged to pay them 100*l.* in money, for every 100*l.* stock they stand possessed of: but as to the advanced price upon any of our stocks, it is the price of an Annuity to continue for a certain or uncertain term of years *à fond perdu*, as the French call it; that is, upon the ceasing of the Annuity the principal is to be entirely lost; because, let that advanced price rise as high as it will, the public stands obliged to pay them no more than 100*l.* in money, for every 100*l.* stock they stand possessed of.

Now, Sir, with respect to our Annuities at 4 per cent. does not every one suppose we shall be able in 6 years to reduce them to 3 per cent. but supposing it should be 10 years, then if the natural interest of money be no lower than 3 per cent. our 4 per cent. Annuities ought not to sell for above $108\frac{1}{2}$ per cent. because in that case, an Annuity of 3 per cent. till the principal be repaid, can be worth no more; nor can it sell for any more than 100*l.* And an annuity of 1 per cent. for 10 years, at the end of which time the principal is to be sunk, as well as the Annuity to cease, is in present value, at the same rate of interest, worth no more, nor can sell it for any more than $8\frac{1}{2}$; so that according to the present price of our 4 per cent. Annuities, the natural interest of money must be under 3 per cent. because they sell for 113*l.* per cent. which is $4\frac{1}{2}$ per cent.

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higher than they could sell for, if the natural interest of money were not under 3 per cent.

Then as to the Bank, it is well known they divide but 5½ per cent. that their term expires in 6 years, and that their Annuity cannot continue any longer than that time; because if proper measures be taken, they may be paid off in that time, and if their term of banking be continued any longer, they ought to pay a valuable consideration for it; from whence we must reckon, that their stock, if the natural interest of money were no higher than 3 per cent. ought not to sell for above 113½ or 114 per cent. at most, which is 100*l.* for the Annuity of 3 per cent. till the principal be repaid, and 13½ or 14 for an Annuity of 2½ per cent. for 6 years, the principal to be then sunk. And lastly, as to East-India stock, as they are now established a company for ever, and their exclusive privilege to continue till the year 1769, and as they divide 6 per cent. 2 per cent. whereof is from the profits of their trade, suppose the natural interest of money no lower than 3 per cent. their stock ought not to sell for above 149½ per cent. which is 100*l.* for the 3 per cent. to continue till the principal be repaid, 8 and some more than ½ per cent. for the 1 per cent. Annuity, which it is supposed the government must as yet pay for 10 years, and near 41 per cent. for an Annuity of 2 per cent. to continue for 32 years, being the residue of the term of their exclusive privilege, at the end of which the dividend of 2 per cent. from the profits of their trade will probably cease; and the principal money now paid for the Annuity proceeding from those profits will be entirely sunk; so that supposing the natural interest of money at 3 per cent. the premium upon Bank stock, according to the price it now sells for, is above 37 per cent. and the premium upon East-India stock, is above 30 per cent. both which are much higher than the premium upon 3 per cent. securities, and is occasioned, I believe, by people's being generally of opinion, that the exclusive privilege will be continued to each of the Companies respectively, perhaps for many generations, without their being ever obliged to pay a full and adequate consideration to the public for the renewal of their term.

From hence it must appear, that the natural rate of interest upon all public securities is under 3 per cent. and to insinuate, that the creditors of the public are in a worse condition than any pledgee or mortgagee, is really something very extraordinary, when all mankind appear so evidently to be of a contrary opinion; for though a war should happen, it will, I hope, rather lower than raise the natural interest of money, because, I hope, our government will never again fall into that dangerous and deluding method of borrowing money for the expences of the war, but will yearly raise as much as may be necessary for supporting the expences of the war, and answering the whole annual public expence. And to pretend, that the Scheme may be rendered impracticable, by a combination among our rich moneyed men, is still more extraordinary; for a conspiracy for distressing the public, in order to prevent us from being able to relieve the people from any of their taxes, whatever it may be reckoned by our lawyers, would, I am sure, be reckoned by the people a sort of high treason against the state, and would consequently make the people think themselves justified in any measures, they might think proper to take, for relieving themselves from their taxes in the speediest and most effectual manner; therefore, I hope, no public creditor, nor any moneyed man in the kingdom, will be so rash and imprudent, as to enter into any such combination or conspiracy.

After what I had said, Sir, I believe the arguments made use of for shewing the impracticability of the Scheme, will entirely vanish; and the dangers we are threatened with, either from its succeeding or not succeeding, will, upon examination, appear as little substantial. That the success of the Scheme, or even the attempt, will make foreigners, especially the Dutch, draw out their money all at once, is a misfortune we have been threatened with upon all intended reductions; and I am convinced we shall now find those threats as ill-grounded as ever they were found upon any former occasion. With respect to foreigners, Sir, particularly the Dutch, there are two insurmountable obstacles, which will prevent their drawing away their money; one of which is, that it is impossible for them to find purchasers at any thing near the value, if any great number of them should resolve to sell; and the other is, that it is impossible for them to get 3 per cent. for their money any where else, upon any security equally good; for the highest interest at present in their own country is but 3 per cent. and

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the lowest in many cases under 2; so that one million sterling only brought from England to be lent in Holland, would very probably run the natural interest of money down to 2, or perhaps to 1 per cent. And as to our own people, some of them might probably draw out their money, in order to lend it on mortgages at $3\frac{1}{2}$ per cent. on good personal security at 4, or on indifferent personal security at 5; which is one of the great advantages to be expected from the Scheme; but the sum to be drawn out for these purposes could have no great influence upon our public securities; because the drawing out of any great sum would bring the natural interest of money upon private securities below the natural interest upon public; which can never happen as long as the generality of mankind have a much better opinion of the latter, than they have of the former. And as to the present fall of stocks, we know it proceeds from the practices in 'Change-Alley, where, we know, some people have been mighty industrious. I wish they had not been so: I wish their behaviour at this time may never be made use of as an argument against all our public creditors in general; for when the behaviour of some becomes a public nuisance, it may be made use of against the whole body; as was lately the case, with respect to the distillers and retailers of spirituous liquors.

I shall grant, Sir, the reduction of interest might very probably diminish the advanced price upon our funds; but I am convinced it would not bring them under par, nor any thing near to it; nay, I do not know but the benefit of not being obliged to receive any part of their principal, nor to have their interest lessened for 14 years to come, would raise the price of all our Annuities above what they now sell for; I think I have good reason to believe it would. However, the advanced price is what the public neither has, nor ought to have any concern about; for to say we ought not to do or attempt any thing that may tend to diminish the advanced price our stocks sell for, would be an argument against ever paying them any part of their principal, as well as against reducing the interest now payable to them; and now it is made use of against attempting to reduce their interest, I hope it will have just as much weight, and no more, than if it had been made use of for our coming to a resolution never to pay a shilling more of the principal of any of our debts, but to turn the Sinking-Fund to some other use yearly, and continue to pay the same Annuity we now pay for ever: which resolution many persons without doors would be glad of, though I am certain no gentleman within these walls would ever agree to it.

There is, therefore, Sir, no danger to be apprehended, either from the success or disappointment of the scheme. To attempt it, is not climbing up a precipice; it is only attempting to do that which we are in duty bound to attempt, as often as there is the least prospect of success; and at present we shall most certainly meet with some. This the declared enemies of the scheme are sufficiently aware of, they would not have been so industrious in their opposition, if they had not known it would certainly meet with great success; and I am surprized to hear it said, the present loud and general complaints are nothing but vapours: every man in the kingdom, who has not great and superfluous sums coming in yearly from our funds, or from some post or pension, is fully sensible of the national distemper we are under; and I am sure no state physician in the kingdom can prescribe a better, or at least a more honourable remedy, than that now in our offer; if we do not apply it, I shall despair of ever seeing a remedy applied, till we change both our physicians and nurses.

Has any man said, has any man pretended, Sir, that the loss an annuitant or stockholder is to sustain by the reduction, will be made good to him by abolishing the duty upon candles? This is treating the subject more ludicrously than it deserves, or ought to be treated; but I will say, it is better for every annuitant and stockholder to take that which is the natural interest of money in his country, than to run the risk of being soon deemed an usurer, whereby he may come to lose both principal and interest. The reducing of the interest payable upon public securities to that, which we find to be the natural interest upon such securities, or paying those off who are not willing to take that interest, is not laying any tax upon our public creditors; but the continuing to pay them 4 per cent. when the natural interest of money is under 3, is really making them a present of 400,000*l.* sterling a year; and I am sure the public is in no condition to make, nor can they pretend merit enough so deserve, such a considerable present. To pretend therefore, that the reduction proposed would be laying a tax of 5*s.* in

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the pound upon them, must appear to be a very great mistake; and to say, that in the present case, there is no distinction to be made between the public creditors and the public, because they are a part of our own people, must appear to be as great a mistake, if we consider, that in all cases, where the private advantage of any set of our own people comes to be inconsistent with the good of the public, a distinction not only then may, but must be made, between that set of our own people, and the public; and in all such cases, I hope the good of the public will, I am sure it ought to be preferred. Is not this the case now before us? It is for the private advantage of our public creditors, to receive from the public yearly a present of 400,000*l.* but I am sure it is inconsistent with the good of the public to continue making them any such present.

But of all the arguments that have been made use of against this reduction, I think the hardest and most extraordinary is to say, that because our people have long paid, and been accustomed to the paying of heavy taxes, therefore there can be no compassion in relieving them from any of those taxes. This, I say, I must think very hard as well as extraordinary; and I am sure it is as extraordinary to say, we have have no taxes upon the necessaries of life. For my part, I do not know any one necessary of life, upon which we have not some tax or another, except water; and we can put no ingredient, I know of, into water, in order to make it palatable and chearful, without paying a tax. We pay a tax for air, and for the light and heat of the Sun in the day time, by means of our tax upon windows; and for light and heat in the night time by means of our duties upon coals and candles; we pay a tax upon bread, meat, roots, and herbs, of all kinds, by means of our salt-duty; we pay a tax upon small beer, by means of the malt tax; and a heavy additional tax upon strong beer, by way of excise; nay we cannot have any clean thing to put upon our backs, either of woollen or linnen, without paying a tax, by means of the duty upon soap: and though most of the taxes may seem to be small and easy to a rich stockholder, who has thousands a year coming in, yet to a poor labourer or manufacturer, who has not perhaps above 8*d.* or 1*s.* a day, and himself and family to maintain out of it, every one of them must seem grievous, and always will be severely felt; till he can prevail with his master, on account of these taxes, to raise his wages; and then, by the loss of employment, he is brought into a worse condition than he was before. Therefore, from the great distress many such poor families are in, and the infinite multitude there are of such in the kingdom, compassion may be strongly pleaded in favour of the reduction, and can, in my opinion, have little or no weight on the other side of the scale; for gentlemen may talk what they will about orphans, widows, and other ladies, but I believe the reduction will bring few or none of them into pitiful circumstances; it will only oblige some of them to betake themselves to business instead of living idly, or to retire to the country instead of living at London; and for this very reason I am for the reduction, because I love to see people employed; and as I am a country gentleman, and love the company of the ladies, I desire to have a few more of them in the country with us.

I do not remember, Sir, any one argument made use of against the reduction, but what I have now either fully answered, or shewn to be an argument in its favour; and I hope what I have said upon this subject will have the greater weight, because every one that knows me, knows I have a very considerable share in the public funds, and that therefore it is as much my immediate interest to oppose a reduction, as it can be the immediate interest of most men in the kingdom; but I shall always consider my future interest as well as my immediate interest; and I hope I shall always be so wise as to prefer the public interest to both. I would not perhaps have been at so much pains to shew my zeal in favour of the question, if it had not been for the contrary behaviour of some, who are in the same circumstances with me; but when I observed some practices made use of without doors against the question, which I do not think altogether justifiable, I thought it incumbent upon me to declare my approbation of the question in the most remarkable manner; in order to convince posterity, as much as lies in my power, that such practices ought not to be imputed to the public creditors in general; and I wish the time may never come, when the public creditors will have reason to thank me for the record I have left in their favour.

The above is the Substance of what was said in the two days debate upon the motion made by sir John Barnard. Towards the end of the second day's debate,

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Sir *William Yonge** stood up, and made a short speech, as follows:

Sir; Whether a further reduction of interest, natural or legal, may tend to the advantage or disadvantage of the nation in general, or whether the natural interest of money, lent on public securities, be below 3 per cent. are questions I shall not at present give you the trouble of enquiring into; but if both be resolved in the affirmative, which every gentleman must do, who is for agreeing to what is now proposed, I can see no reason for our confining our resolution, or the scheme depending thereon, to South Sea Annuities only. For if a further reduction of interest must prove a benefit to the nation in general, we ought to extend that benefit as far as we can suppose it will go; and if the natural interest of money upon public securities, be below 3 per cent. it is not, in my opinion, to be questioned, but the other creditors of the public will be as ready to accept of 3 per cent. irredeemable for 14 years, as the South Sea Annuitants.—For this reason, Sir, if we come to a resolution for enabling his Majesty to open books of subscription, it ought, I think, to be general; it ought to comprehend all the other public creditors, as well as the South Sea Annuitants. But, Sir, there is another very strong reason for making our resolution general, which is, that a particular resolution with respect to the South Sea Annuitants only, will, in my opinion, be partial, and consequently unjust, consider it in what view we please, for that resolution must be advantageous, or it must be disadvantageous to the South Sea Annuitants: If we look upon it as a resolution that may be advantageous to them, it will be shewing a partiality in their favour, and will consequently be doing an injustice to the rest of our creditors; on the other hand, if we look on it as a resolution that may be disadvantageous for them, it will then be shewing a partiality to our other creditors, and will consequently be a piece of injustice done towards the South Sea Annuitants.—From these considerations, Sir, I think, if we come to any resolution or resolutions for redeeming any of our public funds, and for enabling his Majesty to borrow money at 3 per cent. for that purpose, we ought to come to a resolution, to redeem all the public funds redeemable by law, that now carry an interest at 4 per cent. per annum, and then we may come to another resolution for enabling his Majesty to borrow money at 3 per cent. for that purpose.—These, Sir, are my sentiments with respect to the affair now under our consideration; and if the House seems to approve of them, I shall then rise up and move for such Resolutions, as, I think, we ought to come to, agreeable to these sentiments.*

* "Walpole, among others, replied to sir John Barnard's statement, but his arguments were confined to shew that the time was improper for the reduction of interest. He was fully convinced that the proposal, in the shape it was offered by sir John Barnard, was neither expedient or practicable. It became necessary therefore either to amend or throw it out. To throw it out by direct opposition, was not in his power, as notwithstanding its increasing unpopularity without doors, it still seemed agreeable to the general sense of the House, and was warmly supported by many of the members who were personally attached to him. His confidential friend, Mr. Howe, afterwards lord Chedworth, had proposed the scheme, in the highest terms of approbation. He said that the country gentlemen would be benefited by the reduction; that the landed interest required, and were intitled to relief, that the land had been hitherto been loaded with all the burthens, while the funds had borne none; and that their necessities had arisen from the abundance of the stocks. Under these circumstances, Walpole, apprehensive that it would be carried with all its imperfections, adopted indirect means of throwing it out. At the close of the debate, his friend Winnington" [sir William Yonge] "proposed to extend the reduction to all the redeemable debts." Coxe's Memoirs of sir Robert Walpole.

* "The following Letters from Mr. Horatio Walpole to Mr. Trevor explain the nature and principle of the Bill; they unfold the mysterious conduct, and display the embarrassments of sir Robert Walpole, during the progress of a measure, in regard to which the friends of the minister were divided, and even Mr. Walpole was found in the majority against his brother.

"April 1, 1737. I send you inclosed, although I suppose you may have seen it before, sir John Barnard's Scheme. It was debated on Monday last, and the impracticability, compulsion, and consequently the injustice of it, was fully exposed by various speeches; and at last in an ample and ingenious manner by sir William Yonge, who concluded by what was candid and voluntary, he had no objection to the offering to the proprietors of the redeemable debts carrying 4 per cent. the accepting of 3 per cent. per annum, irredeemable for 14 years, by a voluntary subscription, and the coming to another resolution for authorising his Majesty to take in subscriptions in the exchequer for annuities carrying 3 per cent.

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Sir *John Barnard* and others answered in substance as follows, viz.

Sir; There are two methods of defeating any scheme or proposition offered to this House, both of which have been often practised with success. One is the plain, blunt way of putting a negative upon it at once; and the other, which has likewise been practised in former parliaments, is what we may call a sort of parliamentary play, which is, by making such improvements upon it as must necessarily render it abortive. I am far from thinking the hon. gentleman has any such intention with respect to the improvement he has now offered, but there is an old and a true proverb, 'Grasp at all, lose all.' We have been told by several gentlemen in this debate, that the scheme, as first proposed, would certainly prove impracticable in the execution; and if there was the least foundation for such apprehensions, surely that foundation must be very much widened, and rendered at the same time more solid, by the improvement that has been now offered. Our South Sea Annuities both Old and New amount to about 24 millions only; all our redeemable funds bearing an interest of 4 per cent. amount to above 44 millions; and will any gentleman say, but that it may be easy for the government to borrow money at 3 per cent. sufficient for paying off such of the proprietors of 24 millions, as are not willing to accept of that interest, and yet it may be found very difficult for them to borrow money at 3 per cent. sufficient for paying off such of

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These two propositions were, after some debate, in which my brother Walpole concurred, or rather acquiesced, as what was more fair and just than sir John Barnard's, which, in every part, was compulsive, (and indeed to put an end to the bank,) passed in a committee without a division.

"The report being made of these Resolutions on Monday morning, those that were against the redemption of the debts, or reducing them from 4 to 3 per cent. moved to have the consideration adjourned for a fortnight. After some debate the House divided, and it was carried in the negative by a great majority. It was a very extraordinary division with respect to persons: my brother Walpole and sir William Yonge voted for the adjournment; Mr. Pelham and I voted against it; and so it happened in many other instances among persons related to one another in the House, who never separated before; and as none of the Treasury could be named for bringing in the Bill, that is left to sir John Barnard and friends, &c. Particular people that are affected, and especially those in the city, are much hurt, and complain loudly; and I do not doubt they will make their friends uneasy abroad, the consequences of which will be, that those that are frightened so far as to sell their stocks will be bit at last; for in all likelihood their advisers will get into their places."

"Cockpit, April 29, 1737. I am now to return you my particular thanks for your favour of the 19th, relating to the proposal for continuing the redemption of the National Debt, by offering to the creditors that have 4 per cent. an immediate term of 3 per cent. or opening books for taking in subscriptions for annuities at 3 per cent. These plain propositions, thus stated, shews there is no need to have recourse to any reasoning on the justice or right on the part of the public, to take this step, if prudent, on account of political considerations; for it is no more than pursuing the same method used to bring the national interest from 6 to 5 per cent. and from 5 to 4 per cent. founded upon the clauses of redemption contained in the acts of parliament made when the money was borrowed, which clauses were inserted at the request of the lenders, who then thought it an advantage to be redeemable. And therefore, whatever the pamphlets may say, of which I have read some, the public, in this case, make no alterations in their contracts; but follow a right they have by their contracts with the proprietors of stocks."

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After fully justifying the principle of the Bill, he adds; "But to conclude, I do allow that the unpopularity of those that are concerned, who are legions, is so great, and consequently their resentment will be so violent, when they feel that policy and prudence (among the great variety of ill-humours that prevail with people of rank, to the prejudice of the government,) makes it well deserve consideration, whether these plain propositions of an offer of redemption, and a right for redemption, should be pushed, and pass into a Bill, at present; especially since sir Robert Walpole, who I take to be the best judge of us all, as to what is most feasible, and most politic for the sake of the whole, in pecuniary matters, continues to be still so much against it, and will make such an opposition to it as will leave no room to doubt of his sincerity in this affair."

"In a Letter also to the princess of Orange, Mr. Walpole relates the general satisfaction in the city on the rejection of the Bill, which fully displays the policy of sir Robert Walpole, in counteracting the specious scheme of the redemption. A general illumination took place in the city, and the mob were with difficulty prevented from pulling down or setting fire to sir John Barnard's house." Coxe's Memoirs of Horatio Lord Walpole.

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the proprietors of 44 millions as may not be willing to accept of the interest?

If you resolve, Sir, to apply all the money you can borrow at 3 per cent. only to the redeeming of such of the South Sea Annuitants, as will not accept of that interest, all the annuitants may be of opinion, you can borrow as much money as will be sufficient for that purpose, which will of course make all or most of them subscribe their annuities at that interest; so that you will have no occasion for applying any, or but very little of the money you borrow, towards redeeming any of the South Sea Annuitants, and may therefore apply almost the whole money you borrow, towards redeeming the proprietors of your other funds, who will not accept of 3 per cent. upon any terms you please to offer; whereas if you make that resolution general, if you resolve to apply the money you can borrow at 3 per cent. towards redeeming the proprietors of all your funds, which now bear an interest of 4 per cent. who will not accept of 3; not only the proprietors of your other funds, but even most of the South Sea Annuitants may be of opinion, it will not be in your power to borrow so much money at 3 per cent. as will be near sufficient for that purpose; and thus the fear of being redeemed, being confined to a very few, you can expect but few subscriptions in stock or annuities at an interest of 3 per cent. Thus it appears evident, in my opinion, that the farther you extend your scheme, the less benefit you can except from it; the more you confine it, the more general and the more certain will your success be.

However, Sir, as it has been made appear in this debate, that all our funds are at an interest below 3 per cent. as our 3 per cent. public securities now bear a premium in Change-Alley; and as the intention of the scheme at first was only to afford an opportunity to those who are willing to lend at 3 per cent. of having a public security for their money at par, instead of being obliged to pay a premium for it in Change-Alley, and to afford an opportunity to such of the South-Sea Annuitants, as are willing to accept of 3 per cent. for their money, instead of having 4, and being subjected to the trouble and loss of receiving and replacing so much of their capital yearly, or every other year; the small success of the scheme can be of no prejudice to the nation; but on the contrary, the least success that can be supposed, will be a benefit; for if but a million in stock and money should be subscribed, the nation will thereby save 10,000*l.* a year; therefore rather than not have the assistance of the hon. gentleman who has made you this proposition, and of his friends, I shall be for agreeing to the improvement he has been pleased to propose; but I hope the hon. gentleman and his friends will remember, that the Scheme thus amended becomes properly their own Scheme, and that they will not afterwards endeavour to put a negative upon the Scheme they have thus made their own.

The Scheme, even as thus amended, Sir, may turn out to be of signal advantage to the nation; but if that be true which has been hinted in this debate, by some of those gentlemen who opposed the first motion, I must confess, the amendment would be dangerous. It has been insinuated, that all the public creditors will join in concerting measures for defeating the scheme, that is to say, they will join in concerting measures for distressing their country, in order that they may extort a higher interest from her, than she would otherwise be obliged to pay. This, Sir, is, it is true, a practice too frequent among petty, private usurpers; but I hope none of the creditors of the public will ever deserve such a name; for if it were possible to suppose them devoid of all love for their country, their own interest must suggest a contrary behaviour; their own prosperity depends upon the prosperity of their country; even the security of their principal, as well as interest, depends upon the prosperity of their debtor, which can seldom or ever be the case of private borrowers and lenders; therefore we cannot suppose the creditors of the public will ever join unanimously in concerting any such measures. But if any such thing were to be dreaded, they will surely join more unanimously against the scheme as thus amended, than it can be supposed they would have done against the scheme as first proposed. When a nation has been offended by several of her neighbours, if she declares war against them all at once, she will certainly unite them altogether against her, and may probably involve herself in ruin, instead of obtaining that reparation which she might easily have obtained, if she had attacked them one after another. The case is the same. If we resolve to reduce only a part of our public funds to a lower interest, the proprietors of the other funds not being in the same circumstances, will never join with them in the same measures; but if

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we resolve to reduce them all at once, it brings them all into the same circumstances, and will consequently, make them all join in the same measures. This, I say, Sir, would be the case, if it could be supposed the creditors of the public would ever join in any measures for distressing their country. In that case we ought to look on them as public enemies, and then we ought in good policy to take all possible care not to unite them, by attacking them all at once; but I shall never look upon the public creditors as public enemies, nor shall I ever look upon an endeavour to borrow money at a low interest as an attack, even upon that part of them who are by means of that money to be paid off. Quite otherwise, I shall always look upon the public creditors as public friends; therefore, I must suppose they will join in measures for rendering effectual a Scheme calculated for giving an ease to their country, and that the more general the intention of that scheme is, the more generally, and the more unanimously, they will contribute towards its success. This, we ought in charity to suppose, with regard to the public creditors in general, whatever may be the behaviour of some few of them; and upon this supposition, I can apprehend no danger from the improvement, or rather enlargement, proposed.

With regard to the justice and impartiality of the scheme as first proposed, I am surprized, Sir, to hear it questioned by any gentleman who considers the public good, or the different circumstances of our several public creditors. It would, in my opinion, be of great advantage to all the South-Sea Annuitants, An annuity of 3 per cent. for their money, irredeemable for 14 years, is a situation which, I am sure, is highly preferable to their present; but this is an advantage we ought not, for the sake of public good, to grant to any of the other public creditors, if we can avoid it; it is an advantage the South-Sea Annuitants deserve more than the generality of our other creditors; and it is an advantage which can breed no confusion among those Annuitants; whereas the granting it to any other set of public creditors might breed great confusion among them. As to the public good, we must consider, that most of our other creditors enjoy great exclusive privileges in trade, by means of the debt due to them; and as it may, in a few years, be found necessary for the public good, to destroy, or put an end to those exclusive privileges, therefore we ought not, for the sake of public good, to grant them an irredeemable term of 14 years, if we can possibly avoid it; which we may do, if all the South-Sea Annuitants should agree to accept of 3 per cent. and great sums in ready money should likewise be subscribed at that interest. From hence every man must see a good reason for not granting this advantage to the other public creditors in general; but with respect to the Bank in particular, it would be madness and very great partiality to grant it to them; because their term expires in 6 years, so that it would be granting them a continuance of their term for 8 years, which is worth above 800,000*l.* in present money, and that for no particular consideration at all; for the reduction of interest from 4 to 3 per cent. is a consideration granted by the other creditors, as well as by them, though none of the other creditors are to receive any such advantage.

Then, Sir, as to the particular circumstances of the South-Sea Annuitants, every one knows they enjoy no advantage or profit from the money they have lent to the public, but merely that Annuity or yearly interest paid them by the public; whereas the proprietors of our three great companies have all along enjoyed, and do still enjoy the advantage of an exclusive trade, by which all of them have made, and two of them do still make a large annual profit, besides that Annuity or yearly interest paid them by the public; therefore, if any new advantage is to be granted to any of our public creditors, which ought not to be granted to all, if it can be avoided, surely the South-Sea Annuitants have the best title to that new advantage. And suppose one half of the South-Sea Annuitants should agree to accept of 3 per cent. and the other half should not, and that the subscriptions should amount to no more than 2 or 3 millions; in that case it would be impossible for the public to pay off at once, all the Annuitants so standing out; the only thing that could be done, would be to pay them their 4 per cent. yearly, and to apply the Sinking Fund towards them only till they should all be paid off: With respect to the South-Sea Annuitants, this might be easily done, by dividing them into four classes, two of Old and New Annuities at 3 per cent. or if you please you might make but one of both these, and two of Old and New Annuities at 4 per cent. in which case all future payments might be applied to the two

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latter, without breeding any confusion, or causing any disputes: But, suppose this to be the case of the stockholders of our trading companies; it would breed great confusion among them, with regard to the method of dividing the future profits of their trade, and it would cause great disputes; for the proprietors of stock at 3 per cent. might insist, they had a right to a greater share of the profits of their trade, than those at 3 per cent. especially if it be true that the annuity paid to these companies by the public, enables them to increase their trade; and even after the 4 per cents. were all paid off, they might insist on their share of the profits by trade, as long as the company continued; in the same manner as the present proprietors of East India stock might insist upon having their profits by trade divided among them, proportionably to their respective shares, then the debt due to them by the public should be all immediately paid off.

From these observations, Sir, it will appear, that the favour designed by the Scheme, as first offered, to be shewn particularly to the South-Sea Annuitants, proceeds from a regard for the public good, from a regard for their superior merit, and from a proper caution not to breed any confusion, or dispute among our other public creditors; and can any gentleman say, that a favour founded upon such substantial reasons, is either partial or unjust? Therefore, if we suppose the scheme advantageous for the South-Sea Annuitants, we cannot accuse it of any partiality or injustice; and we cannot suppose it disadvantageous to any such Annuitant, because, if he does not like the terms proposed, he may continue in the same condition he is in at present; he may continue to enjoy his 4 per cent. till his capital be paid off, and I hope no Annuitant expects to enjoy it any longer, or imagines it is doing injustice to him, to put the public in a way of paying him off sooner.

After what I have said, Sir, it may be supposed, that I am against agreeing to the amendment or enlargement proposed; and if I were, it would not be without good reasons; for it is certainly inconsistent with the public good to grant a term of 14 years irredeemable to any of our trading companies, if we could any way avoid it; and, I am sure, it is inconsistent with the public good, to make a present to the Bank of above 800,000*l.* which will be the case, if we grant them a prolongation of their term for eight years without any consideration; and lastly, I cannot think it very consistent with the public good to run the risk of breeding a confusion and dispute among any of our public creditors: But as my hopes of success depend entirely upon the hearty concurrence of the honourable gentleman and his friends, I am for agreeing to what he has been pleased to propose; because the first two disadvantages must, I find, be submitted to, and the last will, I hope, be prevented, by each of our companies coming to a resolution in their respective general courts to accept of 3 per cent. upon the terms offered, by which all confusion and dispute among their proprietors will be prevented; therefore I hope the honourable gentleman will again rise up, and move for such resolutions as may be agreeable to what he has proposed.

The following Resolutions were then moved, and agreed to:

1. "That it is the opinion of this Committee, that all the public Funds redeemable by law, which carry an interest of 4 per cent. per annum, be redeemed according to the respective provisoes or clauses of redemption contained in the acts of parliament for that purpose, or with consent of the proprietors, be converted into an Interest or Annuity not exceeding 3 per cent. per annum, not redeemable till after 14 years.

2. "That his Majesty be enabled to borrow from any person or persons, bodies politic or corporate, any sum or sums of money at an interest not exceeding 3 per cent. to be applied towards redeeming the National Debt."

March 30. These Resolutions were reported by sir Charles Turner to the House; and the first Resolution being read a second time, and a new debate arising, a motion was made for adjourning the further consideration of the said report till April 14, but upon the question's being put, it was carried in the negative, by 220 to 157.

Then an Amendment to the Resolution was proposed by general Wade, and seconded by Mr. Walter Plumer, viz. That instead of the words, 'not exceeding 3 per cent. per annum,' the words, 'not exceeding $3\frac{1}{2}$ per annum' should be inserted. Upon which Mr. Sandys took notice, that the Amendment proposed was such a one as could not be made upon a report; because it was for a larger sum annually than what they had agreed to in the com-

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mittee; and that therefore if they had a mind to allow a higher interest than 3 per cent. they must recommit the Resolution. Whereupon Mr. Plumer said, That as an honourable gentleman near him (meaning Mr. Gore,) had before taken notice, the affair's depending in that House had, he found, occasioned so much gaming in Change Alley, that if the Amendment he had seconded, could not be agreed to upon the report, he would be against recommitting; because he was for having the affair determined some way or other with as great expedition as possible, in order to put a stop to that infamous practice of Stock-jobbing. Nevertheless, a motion was made for recommitting; but upon the question's being put, it was carried in the negative. After which, both the Resolutions were agreed to, and sir John Barnard, Mr. Wortley, and the Master of the Rolls, were ordered to prepare and bring in a Bill upon the Resolutions so agreed to. The chief speakers in these debates in the committee and upon the report, for the reduction, were, sir John Barnard, the Master of the Rolls, Mr. Edward Wortley Montague, Mr. Howe, Mr. Gore, Mr. Sandys; &c. And the chief Speakers against the Reduction were Mr. Alderman Heathcote, Mr. Burrel, Mr. Holden, sir Charles Wager, general Wade, Mr. Oglethorpe, Mr. Knight, and sir Robert Walpole, who spoke not so much against the Reduction, as against its being then a proper time for undertaking such a Scheme.

*Debate in the Commons on Sir John Barnard's Motion for taking off the Taxes that oppress the Poor and the Manufacturers.**] As soon as this Bill was ordered to be brought in, sir John Barnard stood up, and after making a short speech, moved, "That this House will, as soon as the interest of all the national redeemable Debt shall be reduced to 3*l.* per cent. per annum, take off some of the heavy Taxes, which oppress the Poor and the Manufacturers." Upon this motion there ensued a debate, in which the Arguments for the motion were to the effect as follows; viz.

Sir; As the increase, or rather the revival of our trade, is one of the chief ends intended by the Resolutions we have now agreed to, and as the prosperity of trade depends as much upon the low rate of wages as upon the low rate of interest, I shall beg leave to make you a motion for another resolution, which I take to be a natural consequence of the two resolutions we have now agreed to; but before I make you the motion I intend, I shall take the liberty to make some observations upon the nature of trade in general; and in the first place, I must observe, that natural commodities, however valuable, by which I mean such as are produced without any great art or industry of the people, are never of any great service to a country, because they maintain no great number of subjects, nor enrich many indivi-

* "Sir John Barnard, however, had not sufficient discretion to be satisfied with this partial victory; instead of weakening the resistance to his favourite Scheme, by making it as much as possible a great national object, he on the contrary united a numerous body of adversaries, lost the vantage ground on which he before stood, and reduced it to a mere party question. He followed up the Report by moving, 'That the House would, as soon as 'the interest of all the national redeemable 'debt should be reduced to 3*l.* per cent. per 'annum, take off some of the heavy taxes 'which oppressed the poor, and the manufacturer.'

"His view in making this unprecedented motion, was to attach popularity to his Bill; but it had a contrary effect, for it was proved to be fallacious, illusory, and irregular. It was fallacious, because it assumed as facts, statements that were not true; that the public imposts fell more heavily upon the poor in England, than in other countries, and implied, that the reduction of the interest from four to three per cent. would compensate for the loss of the revenue, if those taxes were abolished. It was illusory, because it held out a prospect of taking off the taxes several years before the reduction could be effected; and it was irregular, because it bound future parliaments to the adoption of a measure which might not at a future time be feasible. It was ably and unanswerably argued by the minister, and those who opposed it, that to agree to the resolution, would be exposing the public to unavoidable disappointment, 'That it would be time enough 'to come to a resolution to abolish some taxes, 'when the Scheme had taken effect, for if 'such a previous resolution should be adopted, 'and the Scheme should afterwards prove al-'together abortive, the whole world would 'laugh at their precipitancy.' In the Speech which sir John Barnard made in defence of this motion, he betrayed such a confusion of projects, and indistinctness of ideas, assumed so many principles which were untrue, and so violently transgressed the bounds of parliamentary engagement, that the motion was negatived, by 200 against 142, and the public clamour very much heightened." Coxe's Walpole.

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duals. The gold and silver of the Spanish and Portuguese settlements in America are commodities of great value; but as they are produced by the labour of slaves, and enrich only the king and a few great lords, they have rather diminished than increased the power and the riches of both those kingdoms; the reason of which is, because they maintain no great number of industrious subjects, in which the power of a country consists; and the riches that belong entirely to the king, or to a few great men, are generally wasted in luxury and extravagance, or employed in ambitious projects, which no way tend to the public good of the country. This prevents the increase of natural born subjects, and render such as they have, lazy, idle, and extravagant; so that those very riches, which are brought in by the labour of their slaves, they are every year obliged to send out, for purchasing the necessaries of life, or such things as are proper for supporting their luxury.

From hence we may see, Sir, that the commodities proper for increasing or supporting the power and the riches of a country, are those which are produced by the art and industry of the inhabitants. The production or manufacture, and sale or exchange, of such commodities is that only which can properly be called trade; and of such commodities no country can have any great quantity, unless they can sell them cheaper than any of their neighbours can sell commodities of the same kind and goodness. Now as the original materials of all such commodities are to be got by the people of all countries, at pretty near the same price, the difference between the price of such commodities when worked up in one country, and the price of them when worked up in another, must always depend upon the price of labour; that is to say, the wages given to workmen and servants; for no such commodities can be sold so cheap by the people of a country where the wages given to workmen and servants are high, as commodities of the same kind and goodness may be sold by the people of a country where the wages given to workmen and servants are low; but in all countries the price of labour, or the wages given to workmen and servants, must depend upon the price of those provisions which are necessary for their convenient support; I say, Sir, their convenient support, for even the poorest workman must and will have some of the conveniences of life; and that country where the usual price of labour can afford the labourers most of the conveniencies of life, will always at last come to have the greatest number of workmen, in all sorts of trade and manufacture. A glut of business, or a scarcity of workmen, may sometimes occasion the wages of workmen and servants to be higher in one country than another; but if the price of the necessaries and conveniencies of life be equal in both, the workmen will by degrees leave the country where wages are low, and repair to that country where wages are high; by which means the price of labour in both countries will at last be brought upon a par: this will always be the case where the price of the necessaries and conveniencies of life is the same in both countries; but if the price of the necessaries and conveniences of life, by accident or bad measures, become dearer in one country than in another, and continue so for some time, in that country where such necessaries and conveniencies are dearest, the price of labour must rise, or their workmen and servants will all leave them; for though the desire to live in their native country may keep them at home for some time, and may make them chuse to live much more sparingly by their labour at home, than they could do by the same labour in another country, yet some will be every year deserting, and the more that have deserted, the greater encouragement will those that remain have to desert; so that the desertion must necessarily and inevitably at last become general.

This, I say, Sir, will certainly be the event, if the price of labour, or the wages of workmen, are not raised in proportion as the price of the necessaries and conveniencies of life rises in any country; and if the price of labour be raised higher in one country than it is in another, we may easily see what will be the necessary consequence. As the price of the original materials of all sorts of commodities produced by the art and industry of the people, is pretty much the same in all countries, those commodities may be sold cheaper by the people of that country where the price of labour is cheap, than they can be by the people of that country where the price of labour is dear; the necessary consequence of which must be, that the former, by underselling, will first beat the latter out of all foreign markets, and at last even out of their own home market; for though a country may by severe laws and high penalties, for some

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time, prevent the importation of those foreign commodities which are of the same nature with their own, yet the execution of such laws will at last become so grievous to the people, that it must either be neglected, or the laws repealed; because the people can never be persuaded it is a crime to buy at the cheapest hand, nor can they bear to see their fellow-countrymen punished for what they think no crime: they neither will nor can enquire into the causes of the dearness of such commodities in their own country, but will think it proceeds from the covetousness of those concerned in the trade; therefore such laws always have produced, and always will at last produce murmurings and insurrections among the people; so that the government at last will be obliged, for the sake of quiet, to let the people buy where they best can; and this liberty will put a full stop to any manufactures that may then be remaining among them.—There are many other considerations, Sir, which contribute towards rendering trade more flourishing in one country than another; such as a happy constitution of government, and good laws and customs for securing the liberty and property of the subject; a regard and esteem shewn by the laws for merchants and tradesmen; a low rate of the natural interest of money; and many others: but this I will say, that of two countries alike in all other circumstances, the trade of that country will flourish most where the price of labour is cheapest, and where they may have the original materials of those commodities which are produced by the art and industry of the people, at the cheapest rate. Nay, if there be a rivalship between them, as to the production of any such commodity, we may depend on it the former will at last beat the other entirely out of the business. From hence we may see, how ruinous it must be to the trade of any country, to lay taxes upon any provisions that are necessary for the convenient support of their labourers, manufacturers, or tradesmen; or upon any of the original materials of those commodities which are produced by the art and industry of their people: from hence we must see that the trade of any such country must necessarily at last be undone, if their neighbours be in any sort of condition to take advantage of the slip they have made: and from hence we must see, how necessary it is for us to take the most effectual and the most immediate measures for relieving our people from those taxes which lie heavy, not only upon almost all sorts of provisions, but upon almost all sorts of materials. We may make laws against smuggling, we may make laws against exporting our wool, we may make laws against inveigling our workmen into foreign countries: these are but quackish remedies; if we have a mind to work a thorough cure, we must remove the cause, which certainly proceeds from our many heavy taxes; for none of our workmen would go to foreign countries, if they could live more conveniently by their labour in this, than they could in any other; none of our wool would be exported, if it could be wrought up in this country cheaper than in any other, especially, if by our treaties we took care to have a free entry for our manufactures into every country; and no foreign manufacture would be imported upon us, if the prime cost were higher than the same sort of manufacture could be bought for, here at home.

I know, Sir, it has been said our taxes are no way insupportable, nor heavier in this country than they are in Holland or France; but if those gentlemen would compare the taxes and the methods of raising them in this country, with the taxes and methods of raising them either in France or Holland, or any other country of Europe, they will find that the taxes in this country are more burdensome upon trade, and the methods of raising them more inconvenient for the merchant and dealer, than in any country of Europe: Insomuch that, if it were not for the natural advantage we enjoy by means of our situation, and the many flourishing plantations we have in the West-Indies, and for that artificial advantage which has been handed down to us from our wise ancestors, and which, I hope, we shall take care to preserve, I mean the superior excellence of our constitution, laws, and customs; I say, if it were not for these advantages, I am convinced our trade would already have been entirely lost. These advantages, especially our plantations, and the great exports and imports we make to and from them, have hitherto preserved our trade and our manufactures; but our plantations will at last fall upon ways and means to furnish themselves with foreign manufactures, or with such as are worked up among themselves, if they find they can do it at a much cheaper rate than they can have any such from us; and with respect to our imports from thence, such as

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sugars, rum, tobacco, skins, and the like, we may continue for many years to supply our home market with such commodities from our own plantations, by means of prohibitory laws and high duties upon foreign commodities of the same kind; but if our present high rate of interest and high duties continue, and if the French continue to improve their plantations for years to come, as fast as they have done for these twenty years past, I am afraid it may soon be put out of our power to supply any foreign market with any even of those commodities; and if all foreign markets should be shut up against us, both with respect to our home manufactures and with respect to the produce of our plantations, our luxury must either greatly diminish, or we should soon have no occasion to be afraid of foreigners drawing our money away from us, by the sale of their property in our funds; for if they could sell that property for any price, which is much to be questioned, they would find no money in the kingdom to draw out of it, they would be obliged to take and export our corn, cattle, tin, lead, or wool, in lieu of the property they had disposed of.

That the dearness of provisions, and consequently of labour, in this kingdom, does not proceed from money being more plenty in this country than in France or Holland, is evident, Sir, from the natural rate of interest between man and man being higher in this country than in either of the other two; and the dearness of provisions and labour, in and about London, does not so much proceed from a greater plenty of money in and about London, as from their taxes being more numerous, and more heavy, than in any other part of the kingdom; for all taxes are more strictly raised in and about London than in any other part of the kingdom; and the inhabitants in and about London, even those of the poorest sort, are subject to two most grievous taxes, which almost every other part of the kingdom is free from: I mean the tax upon coals, and upon ale-houses by virtue of the pot-act, both which fall extremely heavy upon the poor labourer and manufacturer, and must necessarily make both provisions and labour much dearer in and about London, than in any other part of the kingdom; therefore I hope, these two taxes will be among the first to be taken off: for I must think the manufacturers and labourers in and about London, if they are not put upon an equal footing with their foreign neighbours, ought at least to be put upon an equal footing with their domestic neighbours, especially considering that they will be the greatest sufferers by the reduction of the interest payable upon our public funds. But there is another strong reason for making labour as cheap as possible in and about London, because there are many sorts of manufactures which cannot so conveniently be carried on in any part of the kingdom as in or near London, and all ships which carry out a cargo consisting of a great variety of sorts of goods, properly sorted for the foreign market to which they are bound, must take their cargo and departure generally from London; so that a great part of our foreign trade, as long as we have any, must always depend upon our exports from the port of London; and many of our homeward bound ships must come to unload the whole, or a part of their cargo at London, before they can return to the port from whence they set out; for which reason we ought, if possible, to render the price of provisions, and consequently the price of labour, as cheap at London as it is in any part of this kingdom, or in any trading country in Europe; at least, I am sure, we ought neither to impose nor continue any tax which must necessarily enhance the price both of the one and the other.

After having thus shewn the necessary and the fatal consequences of taxes upon the necessaries of life, or upon the original materials proper for any manufacture, I am convinced every gentleman that hears me will be of opinion, that as soon as the interest payable upon our public funds is reduced to 3 per cent. we ought to annihilate some part of the Sinking-Fund, by abolishing some of the heavy taxes that oppress our poor labourers and manufacturers; for that we have some such cannot I think be questioned, after what his present Majesty was pleased to recommend to us from the throne but a few years since. And in order to convince all those without doors that this is our real intention, we ought, I think, immediately to come to some such resolution; because it will not only contribute towards the success of the Scheme we have just now agreed to, but it will likewise contribute towards preventing some of our workmen from going abroad, who are now perhaps making preparations for that purpose, and towards prevailing with some masters of manufactures to continue in their business, who are now perhaps, through despair, resolving to give it up.

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When our moneyed men and other stock-holders see a solemn resolution of parliament for abolishing some of our most heavy taxes, and when they consider the great benefit that may accrue therefrom to our trade, and the great relief it will afford to our poor labourers and manufacturers, if they have the least regard for their country, they will certainly contribute with the more alacrity towards the success of a Scheme, from which so many public benefits may be reasonably expected; and even the most selfish stock-holders will find in such a resolution this comfort, that if their revenue be diminished by the reduction of interest, their loss will be in some measure compensated by the diminution of their expence, which will be the necessary consequence of abolishing any of our heavy taxes, not only with regard to those commodities which are discharged of the tax, but with regard to all other sorts of commodities; for a tax upon any one of the necessaries of life must enhance the price, not only of all the other necessaries of life, but likewise of all those things that are proper either for the conveniency or the luxury of life. Therefore, the abolishing of some of our heavy taxes must necessarily lessen the future expence of every family in the kingdom, especially about London, where all taxes are most strictly raised, and most severely felt; and consequently a resolution for that purpose must naturally tend towards making every man contribute, with the more alacrity, to the success of the Scheme we have now agreed to.

Such a resolution, Sir, will not only contribute to the success of the Scheme without doors, but it will likewise contribute greatly to its success within doors; for I must confess, I should myself be very indifferent about its success, either within doors or without, if I did not think that the abolishing of some of our heavy taxes would be the necessary consequence of the reducing the interest payable upon the public funds: if the people were to receive no benefit by such reduction, if I thought the only advantage to be reaped thereby, would be the increase of the Sinking-Fund, I should be very little anxious about the success of the Scheme; because I am now fully convinced, that fund will never be religiously and regularly applied to the uses for which it was intended; but will always serve as a fund for leading the nation into expensive and unnecessary projects or measures; and may hereafter be made use of for rendering successful the most wicked purposes an ambitious prince or a guilty minister can invent or contrive. For this reason, I am sure there are many gentlemen in both Houses of Parliament, who will be much more sanguine for the passing of the Bill now ordered to be brought in, than they would otherwise be, if they are assured that the reduction of interest will be attended with a diminution of taxes; and nothing can contribute more towards giving gentlemen such an assurance, than a previous resolution of this House, that as soon as the interest is reduced, some of our most burdensome taxes will be abolished; therefore, whatever gentlemen may pretend, whatever their outward professions may be, I shall not easily believe they are really and in their hearts for passing the Bill we have ordered to be brought in, if they are against the motion I am now to make.

In the debate, Sir, upon the resolution of the Committee, it was, I think, made fully appear, that a reduction of interest would be a great advantage to the nation in general; and as these resolutions have been agreed to by the House, I must conclude the majority are of the same opinion; yet such is the selfishness of some men without doors, who are great stockholders, and who consequently will be great losers by what has been agreed to within doors, that they will not be, or will pretend they are not convinced of what I think is evident at first view. They not only endeavour to convince themselves, but they endeavour to convince others, that the nation will be no way benefited by what we have resolved on, but that on the contrary most tradesmen and artificers will be losers; and the chief, nay the only argument they make use of, or indeed can make use of, is, That we have no design to abolish any of the taxes, but only to increase the Sinking-Fund; Thus, say they to tradesmen and artificers, you will be no gainers by this Scheme, because you must pay the same taxes you did before; and as our revenue is to be lessened, we must contract our expence, we cannot lay out so much money with you as we did before, so that you will be losers, instead of being gainers by the reduction of interest. This, Sir, is their argument, and by means of this argument they may raise up a spirit of discontent among the people; for it is not easy to persuade the generality of mankind of the advantages they may reap by the reduction of interest, unless they be made to feel some immediate advantage by the abolishing of

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taxes; therefore to evade this argument, and to obviate the pernicious designs of such selfish men, we ought now to come to a resolution, that as soon as the reduction of interest takes place, some of the most heavy taxes shall certainly be taken off. It will then be easy for any man, who is a friend to the Scheme, or to his country, to shew to every tradesman, shopkeeper, and labourer, that he must necessarily be a gainer by the reduction of interest; and this of course reconcile great numbers of people to the intended reduction of interest, and to his Majesty's government; at least it will put it out of the power of those who, from selfish views, are enemies to both, to raise any popular discontent against either the one or the other.

From this observation, Sir, I must beg leave to say, that no man, who is a real friend to the Scheme and to his Majesty and his government, can, in my opinion, be against our agreeing to such a resolution as I have mentioned; for, however much the affections and good opinion of the populace may be despised by some men, and though I do not think a popularity should be courted by unjustifiable means, or by mean and imprudent compliances, yet I think the love of the people in general is what every government, and every private man, ought to endeavour to obtain, and therefore, when we see the people misled, or attempted to be misled, we ought to take all possible measures to undeceive them, or to prevent their being deceived by selfish and designing men. However, Sir, when I say this, I would not have it thought, that I look upon the revilings or the applauses of a mercenary mob, a mob headed by clerks of the Treasury and other such mercenary creatures, to be any testimony either of the hatred, or the affections of the people; for such creatures I must always look on as enemies to the people, and shall always be proud of meriting their resentment.

I think, Sir, I need not add any thing further for shewing the reasonableness and the necessity of the resolution I have mentioned; therefore I shall conclude with making you this motion, to resolve, That this House will, as soon as the interest of all the national redeemable debt shall be reduced to 3*l.* per cent. per annum, take off some of the heavy taxes which oppress the poor, and the manufacturers;

To this it was answered in substance as follows:

Sir; I shall readily agree with the hon. gentleman who has made you this motion, that taxes upon the necessaries or conveniencies of life must increase the price of labour, and that it would be a great advantage to the trade of this country, and a great relief to the people, if we could abolish some of our most heavy taxes; but I cannot agree with him in thinking, that the taxes in this kingdom are more burdensome upon trade, or the methods of raising them more inconvenient for the merchant and dealer, than in any of our neighbouring countries; and much less can I agree with him, that it is either proper or necessary for us to come to any immediate resolution, to abolish some of our most heavy taxes, as soon as the interest of all the national redeemable debt shall be reduced to 3 per cent. per annum. I wish the hon. gentleman had been at some more pains to shew us how the taxes in this kingdom are more burdensome upon trade, or the methods of raising them more inconvenient for the merchant and dealer, than in any of our neighbouring countries; for these are facts which, I think, deserve some proof, and if any such thing had been attempted, some methods might have been found for shewing wherein he was mistaken; for to a simple averment of a fact, without one proof or one argument for enforcing the belief of it, no answer can be made but a contrary averment; and in this, with respect to France at least, I am sure I may be justified; for all their taxes are not only imposed but raised in an arbitrary manner, and as most of their taxes are farmed by merchants and dealers, their people are not only loaded with the tax, but oppressed with a monopoly, which those farmers have generally the address to get into their own hands, by means of the privileges they enjoy, as farmers of that particular branch of the revenue. In Holland, indeed, the peculiar nature of their country makes it more easy for them to raise their taxes, than it is possible for us to raise any tax we can impose; but in the main their taxes are much heavier upon the necessaries of life, and consequently more burdensome to trade, than they are in any part of this country, not excepting the city of London itself; where the taxes, I shall grant, are more strictly raised, and are more numerous, than in any other part of the kingdom; but this does not proceed from any partiality towards the rest of the kingdom: It proceeds from the nature of things, which renders it impossible to raise

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the taxes so strictly, or to impose so many, in any other part of the kingdom, as in London, and within the bills of mortality; and this disadvantage is fully made good to the inhabitants in and about London, by its being the metropolis of the kingdom, and the center, as it were, of all the trade and public business within the British dominions.

With regard to France and Holland therefore, I must think, Sir, and it has been the general opinion, that the subjects of each are more loaded and more oppressed with taxes and excises, than the people of this kingdom; and with regard to any other country of Europe, they may not perhaps have so many or so large taxes as we have, because their people in general are not near so rich; but in each of them their taxes are more heavy, in proportion to their riches, than in this country, and their method of raising taxes is more arbitrary and more oppressive; from whence I must conclude, our taxes can give no country in Europe an advantage over us in trade, nor can the price of labour, or the wages of their servants or workmen, be cheaper than it is here; at least, if it is, that cheapness must proceed from their not having so great a plenty of money, or from their workmen and servants being more frugal and industrious, by which they are enabled to live upon less wages. Nevertheless, I shall grant, the abolishing of some of our most heavy taxes would be a great benefit to the nation, and a great encouragement to our trade, because it would give us a great additional advantage in trade, over every one of our neighbours; therefore I wish with all my heart it could be done, but in our present circumstances I do not think it possible, or at least not consistent with the present and future happiness of the nation; for our government must be supported, and not only the interest of our public debts must be regularly paid, but a part of the principal must be yearly discharged, in order that we may at last get free of our debt as well as of most of our taxes. If we abolish any of our taxes before our debts are paid off, we must remain longer in debt, and consequently must remain longer under those taxes that are left unabolished; so that the only difference is, whether we shall remain under two taxes of equal value for 20 years, or under one of these taxes only for 40 years? Which is a question that in my opinion is very doubtful, and requires a very mature consideration. However, suppose I were to admit that some of our taxes ought to be taken off, as soon as the interest payable upon our public funds is reduced to 3 per cent. suppose I were to admit that it would be better for the nation to remain 40 years under a tax of 100,000*l.* yearly, than to remain but 20 years under two taxes of 100,000*l.* yearly each; yet I cannot admit that it is either necessary or proper for this House, upon the present occasion, to come to any such resolution as has been proposed.

Every one knows, Sir, and the gentleman who moved you this question is very sensible, that no parliament has any power or authority over a future parliament, nor can the resolution of one session be a tye or obligation upon any succeeding session. The event which the resolution proposed relates to, is an event which cannot possibly happen during this session; It is impossible to suppose that during this session the interest upon all our public funds can be reduced to 3 per cent. therefore our resolving what shall be done when that event happens is undertaking for a future session, which we have no power over, nor can pretend to prescribe to. For this reason, if the intention of the resolution be to encourage our public creditors to come in and subscribe their respective debts at 3 per cent. I must beg leave to say it is in some measure a sort of fraudulent intention, because it is offering them a consideration which we have no power to offer; it is making them a promise which we cannot fulfil, nor oblige any succeeding session to fulfil; and I hope this House will always be so careful of its honour, as never to come to any resolution or determination, that may bear the least imputation of being any way fraudulent or deceitful.

But suppose, Sir, we had a power to resolve or determine what shall be done by any future session, yet upon the present occasion we ought to avoid coming to any such resolution or determination, as what is now proposed; because it will be looked on as a sort of threatning. It is a sort of public declaration that the nation shall never be freed from any of its taxes, till the public creditors agree to accept of 3 per cent. for the money due to them, but that it shall be freed from some of its most heavy taxes, as soon as they agree to accept of that interest. By such a declaration, what an unlucky circumstance shall we put all our creditors in! They must give up a fourth part of their revenue, which many of them can very ill spare,

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they must accept of a lower interest for their money than any other man in the kingdom has, or they must expose themselves to the malice and resentment of the people in general; for upon their refusal every man in the kingdom would look upon them as the cause of all the taxes he pays, and every unfortunate man would look upon them as the authors of his misery. Nor does it signify any thing to say, that those who do not chuse to accept of, or cannot live upon 3 per cent. for their money, may sell out and employ their money where they best can; for if many of them should resolve to sell out, it would soon bring the price of every one of our funds below par, and then they would be reduced to the hard necessity of losing a part of their capital, or of taking such an interest as the public should be pleased to give them. After such a public declaration therefore, most of those who are now the creditors of the public, must necessarily remain so, and if they do, they must either accept of 3 per cent. or they must expose themselves to the malice and resentment of the whole nation, which is a circumstance no wise man would chuse; and for this reason I must look upon the resolution proposed, as a sort of threatening and frightening our creditors into the accepting of 3 per cent. which is a sort of treatment I shall never, for any consideration, agree to.

This, Sir, is a method of treating our public creditors, which I hope we shall never have the least occasion for; and in order to prevent the nation's being of opinion that they can never be freed from taxes, unless the interest upon all our public funds be reduced to 3 per cent. and consequently to prevent any public creditor from incurring the resentment of the people for refusing to accept of that interest, I must beg leave to put you in mind, that though the interest of our public funds be never reduced below what it is at present, yet if our taxes be continued, and the Sinking-Fund regularly applied, the people may be freed from all their taxes, except such as are necessary for the current service, in about 24 years, supposing our debts to be 48 millions, and the annual amount of the Sinking-Fund to be 1,200,000*l.* And that if it should be thought for the benefit of the nation to abolish some of our heavy taxes, before our debts be wholly paid off, we may now do it without any reduction of Interest, and yet leave a very considerable Sinking-Fund remaining for the payment of a part of our debts yearly: Nay, all the advantage we can expect by the great reduction proposed, is only an addition of about 400,000*l.* a year to the Sinking-Fund, and that addition we shall acquire in less than 8 years, without any reduction of interest, or threatening our public creditors with the public resentment; so that in less than 8 years time we shall be in as good a condition for abolishing taxes, and may abolish as many of them, without any such reduction, as we can do at present, supposing such a reduction were already brought about: From all which I must conclude, that, with respect to the abolishing of taxes, it is no matter of any great moment to the people, whether the reduction takes place or not.

I shall readily grant, Sir, that the reducing of the interest upon our funds from 4 to 3 per cent. would be a considerable saving to the public; but to pretend that the abolishing of taxes equal in value to that reduction, would be a compensation to the public creditors for the loss of one fourth part of their yearly revenue, is what I am not a little surprized at; for the abolishing of the duties upon candles and soap would amount almost to the full value of what we could save by the reduction; and to pretend that the saving of 1*d.* a pound upon candles, and three-halfpence a pound upon soap, would be a compensation to a man who loses 100*l.* a year or more by the reduction, is something very extraordinary. But suppose I should admit that the saving in one way would be a compensation for the loss in the other, that compensation is what we have no power to promise, and therefore we ought not to propose it as an inducement for any of our creditors to accept of 3 per cent. nor ought we by any resolution to give them hopes of its being a compensation they will certainly meet with; for I am sure, in private life, it would not be reckoned very honourable for a man to promise, or so much as insinuate, a reward or compensation, which he had no power to give; and as in all our proceedings we have been, so I hope we always shall be as jealous of our honour, as any private man can or ought to be.

For this reason, Sir, we ought not to make any such promise, or propose any such compensation, even though the people without doors are so far mistaken about the power of parliament, as to imagine the resolutions of one session were

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binding upon every succeeding session; but as the people without doors are fully apprized of the extent of our power, as it is generally known without doors, as well as within, that no resolution of this session can lay an indispensable obligation upon any future session, therefore we cannot expect that the resolution now proposed, or any such resolution, can any way contribute to the revival of our trade, the success of the scheme now before us, or the rendering the people better, or more generally well affected towards his Majesty and his government, than they are at present. On the contrary, I believe, it would have a quite contrary effect, with regard to every one of these three purposes; because it would give the people without doors a mean opinion of our proceedings, and the enemies to the scheme would not fail to represent such a resolution in the most ridiculous light.

From hence, Sir, I must beg leave to differ so far from the honourable gentleman, as to think, that no gentleman, who is a real friend to our trade, or to the Scheme, or to his Majesty and his government, will be for agreeing to the resolution proposed. I am sure, if the honourable gentleman viewed it in the same light I do, he would never have offered it to the House; and I must say, I have the pleasure to think, that neither of the ends proposed stands in need of any such resolution. Our trade is now, I believe, in as flourishing a condition as ever it was; therefore though it might perhaps be increased by an actual discharge from some of our taxes, yet it could not be said to be revived even by the discharge itself, and much less by an insignificant resolution for that purpose. Then as to the success of the Scheme, if the natural interest of money upon public securities be at three per cent. it will take effect of itself, without any such resolution; and if the natural interest of money be at four, I am convinced no gentleman of this House would desire to make use of threats, or empty promises, in order to induce the public creditors to accept of three. And lastly, as to the affections of the people toward his Majesty and his government, I hope they are already so well and so generally established by the wisdom and justice of his Majesty's conduct, that they stand in no need of a support from any resolution of parliament. I am sure every gentleman of this House would be sorry to think they depend upon such a precarious foundation as the resolution now before us, which may be rendered abortive, not only by the disappointment of the Scheme, but by the next session's not being of the same opinion with the present.

I shall conclude, Sir, with observing, that gentlemen are generally too fond of their own schemes. Our schemes are like our children; we often conceive much greater and more certain hopes of their success, than can reasonably be expected. For my part, as the Scheme is none of mine, as I had no share in its conception, I am so far from being certain of its success, that I am not a little suspicious of our meeting with a disappointment; therefore, I must think our agreeing to the resolution now before us, would be a sort of reckoning without one's host. I must think it will be time enough for us to come to a resolution to abolish some of our taxes, when we see the Scheme has taken effect; for if we should now come to such a previous resolution, and the Scheme should afterwards prove altogether abortive, the whole world would laugh at our precipitancy; for which reason I shall give my negative to the question.

The Reply was to the effect as follows:

Sir; I am a good deal surprised to hear it said, that no proofs or arguments have been offered for shewing that the taxes in this kingdom are more burdensome upon trade, and more inconvenient for the merchant and dealer, than in any of our neighbouring countries. This, I say, I am a good deal surprised at, considering how many clear proofs and solid arguments were laid before us in the committee on the national debt, for evincing a melancholy fact; which happened so lately, that I am sure they cannot have slipt out of any gentleman's memory, and therefore I shall not give you the trouble of repeating them. But I cannot comprehend what the honourable gentleman means by excises in Holland or France, for I never heard of a gauger or exciseman in either of those countries; and upon enquiry I believe, it will appear, that none of their taxes are levied in that manner. As for the farmers in France, I do not see how they can set up any monopoly; because they are often changing; and as every dealer knows what duty he is to pay upon any commodity he has a mind to deal in, the farmers can hinder no man from dealing in what he pleases, and consequently can set up no oppressive monopoly: be-

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sides, as the farmers are always they who offer the most money, they cannot always be either ministers or the creatures of ministers, and therefore would certainly be called to account if they should concert measures for oppressing the people.

Our travellers, Sir, who make but very superficial enquiries into the manners or customs of any country they pass through, may perhaps imagine the people in France or Holland are more heavily, or more oppressively taxed, than the people of this kingdom, because they hear the people complain there as well as they do here; but any gentleman who understands these things, and has made a proper enquiry, may soon be convinced of the contrary; and as for the other countries of Europe, they have not, it is true, such numbers of rich merchants, masters of manufactures, and master tradesmen as we have in this country, which is the reason that many of their poor live in idleness, or starve for mere want, because there are few or no rich merchants or masters in the country, that have money to employ them; but in all countries, where the poor have any employment, they are pretty near equally poor; they neither get nor expect more than a comfortable subsistence by their labour, and if you enhance the means of that subsistence, by taxes upon the necessaries or conveniences of life, their masters must increase their wages; so that all taxes fall at last upon the masters, foreign or domestic, who must pay for that increase of wages in the price of goods they purchase; but the difference is, that a tax laid directly upon the master, only prevents his growing rich so fast, or makes him live less luxuriously, but does not enhance the price of your manufactures; whereas a tax laid upon those things that are necessary for the support of the poor, enhances the price of labour, and consequently raises the price of all your manufactures both for domestic and foreign sale, which at last ruins your trade. Therefore, if the poor of this kingdom be more heavily taxed than the poor in any other country of Europe, it is what ought to be remedied as soon as possible; it is what will give that country a great advantage over us if they should ever begin to apply themselves to trade, which every country of Europe is now aiming at as much as they can.

As for the city of London, Sir, it is indeed, the centre of all business in our dominions, therefore, it may be called the heart of our trade; and I am sure, if our trade has an oppression at the heart, it cannot be expected it will thrive in any part of the body. I am far from thinking it a good reason, why the inhabitants of London, and within the bills of mortality, should be taxed more heavily than any other part of the kingdom, because they can bear it; for I think, no part of the kingdom should be taxed, at least in time of peace, near so heavily as they can bear. As we have in London great numbers of idle and extravagant people every year crowding in upon us from all parts of the country, for the sake of business, preferment, or pleasure, this concourse must necessarily enhance the price of provisions upon the laborious and industrious, which is a disadvantage at leat equal to any advantage they may reap from their city's being the metropolis of the kingdom, and the centre of all trade and public business: But if it should be thought proper to lay heavier taxes upon the inhabitants of London and within the bills of mortality, those additional taxes ought to be laid upon the luxuries and pleasures of life, and not upon the food and raiment of the poor, such as leather, salt, and common beer; nor upon those things that are necessary for working up every sort of manufacture, such as coals, soap, and candles.

I am sorry, Sir, to hear it said in this House, that our people are more idle and extravagant than the people of any neighbouring country; and I am still more sorry to say, that I am afraid there is too much ground for such a national reflection; but that very idleness and extravagance has been introduced among our people by the multitude of taxes they groan under; for the levying of those taxes has created such a great number of small posts and idle employments, that vast numbers of our tradesmen and dealers spend their time idly and extravagantly, in hopes of obtaining one of these posts or employments; and our people every day see such numbers of idle and extravagant fellows well provided for, by means of these posts and employments, that the spirit of idleness and extravagance becomes every day more universal; for as such fellows are generally what we, in imitation of the French, call boon companions, they are mighty useful men in those affairs, which most certainly entitle a man to a post or employment; so that after they have ruined themselves by their idleness and extravagance, their neighbours see them better provided for,

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and enabled to live more handsomely, than ever they did before, or could ever expect to live by honest industry or useful labour: This encourages hundreds to follow their example, and makes the distemper spread like a plague over the whole kingdom; whereas, if beggary and starving were the certain consequences of idleness and extravagance, every such fellow would be an example and a terror to his neighbours, which would frighten most of them from following any such courses. Perhaps, Sir, some gentleman that hears me, may look upon this as an ill grounded speculation; but in confirmation of what I say, if I am rightly informed, there is now a little borough in a northern county, not very far distant from London, in which I am told, there is hardly one thriving merchant, tradesman, or shopkeeper, to be met with; for so many of them have already been provided for by means of some public post or employment, that all the rest expect the same good fortune, and every one, by living idly or extravagantly, spends more than he gets by his business, in hopes of being soon provided for in another way.

Thus, Sir, we see that, with respect to our trade, our taxes are like a two edged sword, they cut both ways, they not only enhance the price of labour, but they diminish the number of our labourers; and when we see this, supposing the taxes in this kingdom to be no more burdensome upon trade, nor the methods of raising them more inconvenient for the merchant and dealer, than the taxes in any other country of Europe, can we make it a question, whether or no we ought to take the first opportunity for abolishing some of them? But when it has been made appear, as it was, I think to a demonstration, in the committee, whose report we have just now agreed to, that our taxes, and our methods of raising our taxes, are more burdensome upon trade, and more inconvenient to the merchant and dealer, than either in France or Holland, ought we not to think and contrive all possible or feasible methods for removing that clog upon our trade, and for putting our people upon an equal footing at least with any of our neighbours, especially with those who are our greatest rivals in trade and naval power? The question is not now, whether we shall remain under one tax of 100,000*l.* a year for 40 years, or under two taxes of 100,000*l.* a year each, for 20 years? The question is, Whether we shall preserve our trade or no? If we continue under the two taxes, our trade will be ruined before the 20 years are near expired; which will diminish the produce of each, and may perhaps render it impossible for us ever to get free of either: If we abolish one, we must, it is true, continue longer under the other; but then we shall preserve our trade, perhaps improve it, which may make the produce of that one equal perhaps to the present produce of the two; in which case we shall get free from that one, perhaps as soon as if we had continued under both. This, Sir, is the difference, this is the question, and this question can admit of no dispute. If our people continue subject to all the taxes they now pay for 24 years to come, our trade will certainly be undone, and what is worse, the greatest part of it will be transferred to our natural enemies, which will add to their power at the same time it diminishes ours; whereas, if we abolish a great part of our taxes, or the heaviest of them, we shall preserve our trade, and may get free of our debts much sooner: for if we should lose our trade, we could never get free of our debts, it would become impossible for us to pay them. Therefore, I hope it will never be made a question in this House, Whether or no we shall abolish some of our heaviest taxes, as soon as the interest upon all our redeemable funds is reduced to 3 per cent.

If this, Sir, can never be made a question, what harm is there in our coming to a resolution, that that shall be done, which every man agrees ought to be done? That one session may engage for another, is a maxim which I am surprized to hear controverted by those, who have so often proposed to and prevailed with, one session to engage for another. What are all our Votes of Credit but one session's engaging for another? And I am sure there was never one of them that could be called so just or so necessary an engagement, as what is now proposed. I know, Sir, that one parliament cannot by any resolution, no not even by act of parliament, legally bind another; for no act can be passed by one parliament, but what may be repealed by another; at least no man can legally question their power: but will any man say, that a future parliament may not in justice and honour be bound by a former? Does not the security our public creditors have for their respective debts depend upon this maxim only? We must therefore grant, that the acts or resolutions of any one session, by which foreign states, or private men, natives or foreigners, are in-

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duced to lend money, or conclude any transaction, to or with our government, are in justice and honour binding upon every future session; and that no future parliament can repeal such acts, or do any thing contrary to such resolutions, so as to injure any of the parties contracting upon the authority of those acts or resolutions. From such engagements nothing can set us free but that supreme law, the safety of the people. For this very reason, I am for agreeing to the resolution now proposed, in order that we may bind future parliaments as much as we can, and in a manner oblige them to abolish some of our taxes, as soon as the interest upon all our funds is reduced to 3 per cent. by making it appear upon our Journals, that the abolishing some of our taxes was the condition upon which our creditors agreed, and the consideration which induced them to agree to accept of 3 per cent. interest.

Has any man pretended, Sir, that the advantage arising from abolishing our taxes upon soap and candles, or any other commodity, will be a full recompence to every one of our creditors for the loss he may sustain by the reduction of interest? No, Sir; no such pretence has been set up by any gentlemen within these walls: the principal recompence our creditors are to expect, arises from the advantage which will accrue from such an abolition to the generality of the nation; and to every one of them who has any regard for his country, this will of itself appear to be a full recompence. But to talk in the most selfish and most mercenary manner, the abolishing of the duties upon soap and candles only, will be a full, or very near a full compensation to all our public creditors who have not above 1,000*l.* stock, and have families to maintain or provide for; because the duties upon soap and candles have raised their price at least double the value of the duties; therefore the taking off of those duties will be a saving of 2*d.* a pound upon candles, and 3*d.* a pound upon soap for every pound a man buys, or that is bought for his account; which will not only be an immediate saving in the expence of his family, but will diminish the price of almost every thing he is obliged to purchase for the use of his family. Our stockholders therefore who have but 1,000*l.* or under, and have families to maintain, can be no losers by the the reduction of interest if all the taxes mentioned in the former debate should be taken off; and such stockholders are, I think, the only persons who have or deserve any share of our compassion.

As for the argument made use of against the Resolution, That it will appear to be fraudulent or deceitful, I think, Sir, I have already fully answered it, by shewing we have a power to promise such a compensation or consideration, and that future parliaments will be bound in honour and justice to make good that promise; and to pretend, that the resolution implies a sort of threatening the public creditors with national resentment, is an argument that, in my way of thinking, can proceed from nothing but a most contemptible opinion of the knowledge and understanding of most men in the nation. Does not every man of common understanding know, that the greatest part of the taxes he pays, excepting the land and malt tax, goes towards the payment of the principal or interest of our debts? and can any such man suppose, that he will get free from any part of those taxes till we get free of a great part of that debt, or at least of some part of the interest payable upon that debt? The resolution therefore can bring no resentment upon our public creditors, because it communicates nothing to the people but what they were before fully apprized of. We may, it is true, annihilate the whole Sinking-Fund, if we please, by abolishing several of our taxes, and remain subject for ever to the same debt we now owe, and the same interest we now pay; but will any gentleman say we ought to do so, or that it is consistent with the public good to do so? It is, in my opinion, so far otherwise, that I should not be for annihilating any part of our Sinking-Fund, or abolishing any of our taxes, before a total discharge from our debts, if the present unlucky circumstances of our trade did not necessarily require it; because every shilling paid for interest is so much absolutely lost to the nation, being a sort of expence from which the nation never did, nor ever can reap any benefit; but as this loss will not be so grievous to the nation, when the interest is reduced to 3 per cent. as when it stands at 4, therefore we may then, for the sake of our trade, annihilate a part of the Sinking-Fund, though we cannot in common prudence, even for the sake of our trade, do any such thing, while the interest continues at 4 per cent.—But suppose, Sir, it were consistent with the public good, to abolish some of our taxes, and thereby annihilate a part of the Sinking-Fund, before the reduction of interest, it is certain we

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could not then for several years be in so good a condition for reducing the interest payable upon our public Funds, as we are at present; which is a strong additional argument for not attempting any such thing till that interest be reduced; and it is likewise certain, we cannot now reduce so many of our taxes, and leave so large a Sinking-Fund remaining, as we might do, if the interest upon our funds were reduced to 3 per cent. In the former case, if we should abolish the duties upon soap and candles only, we should reduce the Sinking-Fund to 800,000*l.* per annum, whereas in the latter, we may abolish not only the duties upon soap and candles, but likewise the duties on coals, the duty on leather or hides, and the late tax on the victuallers in London and within the bills of mortality, and yet leave very near the same yearly sum remaining for the Sinking-Fund.

Thus, Sir, we see there is a very material difference between what we may do as interest stands at present, and what we might do if interest were reduced to 3 per cent. but to say we shall be in as good a condition 8 years hence to abolish some of our taxes, though interest should stand for all that time at 4 per cent. as we should be at present if it were reduced to 3, is something very extraordinary. Surely, gentlemen who talk so, do not consider, what a vast sum the people of this nation would save in 8 years time, by the immediate abolishing of taxes to the amount of 800,000*l.* a year. In the former debate, it was computed, that the gross produce of our taxes, which is the sum raised yearly upon the people, is near double the net produce coming into the exchequer; and the accounts lying upon our table will justify this computation: then to this if we add the loss people are at, by the advanced price of the commodity, upon which the duty is laid, which, with respect to small duties, is in many cases near double the duty; I am sure I may reckon that, by the abolishing of taxes to the amount of 800,000*l.* a year, the people of this nation will save in their yearly expence at least 1,200,000*l.* a year; and an annuity of 1,200,000*l.* a year for 8 years, at 4 per cent. compound interest, amounts to above eleven millions, which is a saving, I think, deserves to be regarded by every gentleman who has a sense of the sufferings of the people. Besides this advantage which the people will reap by an immediate reduction of interest and abolition of taxes, it is more than probable our taxes will not produce so much yearly at the end of 8 years, as they do at present, if things should remain for that whole time upon the present footing; because, if our trade be upon the decline, the people will not only be decreasing in their number, but will be every year growing poorer: in either of which cases there will not be such a consumpt of those commodities upon which the taxes are raised, which must necessarily diminish the produce of each of them; and if at the same time, we should then be engaged in a war, the yearly produce of the Sinking-Fund may happen to be worth little or nothing; in which case, we shall then be in no condition either to reduce the interest payable upon our public funds, or to abolish any of our taxes.

From what I have said, Sir, it will appear, that if the people continue under all their present taxes for any number of years longer, it is probable they must continue under them for ever, or at least as long as they are able to pay them, and if that should be their unhappy fate, we may expect they will not only shew a resentment, but that it will at last break forth into rage. However, it is evident that neither their resentment nor their rage will be owing to this resolution, but to the injuries and oppressions they feel; and if the public creditors are entirely passive, if they are not active in concerting measures, as has been threatened, for preventing the good effects of the scheme we have agreed to, the resentment of the people will be no way directed against the creditors, but against those who shall be found to have misapplied that fund, which was appointed for paying them off, and for relieving the nation from taxes. The consequences may, indeed, be fatal to the public creditors, with regard to the debt due to them; because, if the nation should by such means be brought into confusion, that confusion may prevent its being ever in our power to pay them any part of their remaining principal or future interest; but that loss will arise not from the scheme we have agreed to, nor from the resolution proposed, but from the bad success of both; and this I hope every one of the public creditors will take particular notice of, and will therefore join heartily in promoting the success of the Scheme, instead of concerting measures for its defeat.

As all the arguments made use of for shewing that the resolution now proposed, can neither contribute to the revival or

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support of our trade, call it which you will, nor to the success of the Scheme, nor to reconciling or preserving the affections of the people towards his Majesty and his government; I say, as all the arguments made use of for this purpose depend upon its not being in our power to engage for, or bind any future parliament, I have fully answered them already, by shewing that it is in our power to bind a future parliament, to the abolishing of taxes, as much as it is in our power to bind them to the paying of a debt; and as the abolishing of some of our heavy taxes is really in itself a valuable consideration, and sufficient for inducing our creditors to come into the scheme, I think we ought to agree to the resolution, on purpose that the world may see, that a future parliament cannot in honour and justice refuse to abolish some of the taxes, as soon as the interest is reduced to 3 per cent. because it would be a defrauding the public creditors of the consideration which was promised them, and which was the principal inducement for their agreeing so unanimously to accept of 3 per cent. for their money.

With respect to the Scheme itself, Sir, it signifies nothing to me who was the author of it; but if the hon. gentleman had no share in its conception, I am sure he or some of his friends have added a very considerable limb to it, and such a limb too, that if any miscarriage happens, it will certainly be owing to that limb which they have added. If they had proposed no improvement or addition, if they had not in some measure obliged gentlemen to agree to what they proposed, I am convinced the Scheme as it was first offered would have had the wished for success; and if they think that what they have added will render it abortive they are in the right to disown their being the authors of the Scheme; but that will not prevent people's imputing to them the whole blame of the miscarriage. However, as I think the Scheme, even as it stands now, may meet with success, and as I think the resolution now proposed to us will very much contribute to that success, therefore I shall be for agreeing to it.

The debate being over, the question was put upon the motion, and carried in the negative by 200 to 142. The principal speakers in this debate were, sir John Barnard, Mr. Lyttleton, Mr. Sandys, Mr. alderman Perry, Mr. Pulteney, and Mr. George Speke, for the motion; and Mr. Winnington, the lord Baltimore, Mr. Plumer, and sir Robert Walpole against it.

April 22. Sir John Barnard presented to the House, according to order, a Bill "For redeeming all the public funds redeemable by law, which carry an interest of 4*l.* per cent. per annum, or converting of the same, with consent of the proprietors, into a less Interest of Annuity, not redeemable till after the time therein to be mentioned;" which was read a first and ordered to be read a second time.

April 29. The said Bill was read a second time; and a motion being made for committing it, the same was opposed, upon which there ensued a long debate. In this debate, all the Arguments for and against the Reduction were repeated and enforced; but as we have already given a full account of most of them, we shall add nothing more upon that subject. The other part of the debate related chiefly to some informalities and imperfections which were pretended to be found in the Bill, by those who were against its being committed; because they said they were such as could not be properly altered or amended in the Committee. On the other hand, those who were for committing the Bill, insisted, there were no informalities or imperfections in it, but what might easily be altered or amended in the Committee, with the assistance of those gentlemen concerned in the Treasury, who were to be supposed best acquainted with the method of drawing up such Bills, and who, it was to be presumed, would give their assistance to the Committee, though they had refused to give any assistance or advice to those gentlemen who were ordered to draw it up. Upon this occasion

Sir *Robert Walpole* spoke to the following effect:*

"I know, Sir, it has been asserted without doors, that the honourable gentleman who first mentioned this Scheme to the House, had several private conversations with me upon the subject, and that we had concerted and settled the Scheme between us, before he offered it to the House; but I shall declare, that he and I had never any private conversation upon the subject, nor had we ever any concert about this Scheme or any other Scheme I know of; therefore, I can with great confidence affirm, I.

* "The substance of this Speech is taken from Parliamentary Minutes in the hand-writing of sir Robert Walpole." Coxe's Walpole.

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had never any hand in this Scheme, either in its original formation, or in any shape it has since appeared in:"—He then proceeded to review his own conduct during its progresss; acknowledged that he had acquiesced in the committee, but that on the first reading, feeling some doubts on the propriety of the measure, he had desired time to weigh maturely its beneficial against its evil consequences. But whatever doubts, he continued, I might then entertain, deliberate reflection has removed them, and convinced me of its inefficiency.

The measure is founded on plausible assumptions, that it is better to pay three than four per cent. and that it is desirable to discharge the debt of the nation. These positions are undoubtedly true, but the question is, whether the method proposed to effect them is just and adequate? We must take care not to confound public necessity with public utility. Public utility differs essentially from profit or benefit gained to the public; for when profit accrues to the public, at the expence of many individuals, it loses all claim to consideration under the title of public utility. This House, in carefully attending to their duty, as guardians of the national purse, must not forget that they are trustees for the creditors. We must not assume a right to prejudice the public creditors, or to convert the right of redemption which we possess, into a right of reduction, to which we have no claim. Debts not originally subject to reduction, are, in that respect, in the situation of irredeemables, and the faith of parliament is equally pledged to prevent any reduction without the consent of the proprietors. If we advert to the time and manner in which these debts were created, every argument against the reduction of interest, acquires a great additional force. At that disastrous period, the creditors of the South-Sea and East India Companies had a power to demand the whole amount of their bonds. Their forbearance was essentially necessary to the defence and well-being of the community; for, had they persisted in claiming their principal, the whole must have fallen on the landed interest, or the result must have been such as I dare not mention, or hardly think of. And is the service then rendered to the country, to be now repaid by a compulsory reduction of their dividends? I call it compulsory, for any reduction by terror, can only be described by that name. If they are to be so reduced, the pretence is, that it will ease the current service, or take off taxes; but that would be only to take the taxes off others, to be imposed on them, in the most cruel and insupportable manner. It would be equally just to take away one fourth from the income of every individual, or to deprive him of one fourth of his lands or stock in trade; or rather the injustice would be less in such case, because the national creditor is, by express contract, exempt from all public taxes and impositions.

Nor is it true that the interest proposed is equivalent to the value of money; for though money cannot be invested in the funds without an advance above 3 per cent. at par, yet all loans on real securities, on estates, or on personal securities, bear a much higher interest. The preference given to the funds, arises from various causes; from the facility of receiving interest, cheapness of transfer; and from none more than the faith placed in the national honour, which is bound to suffer no loss to fall on the public creditor. Stock, while the credit remains untarnished, is but another name for ready money bearing interest, a property which in no other case can attach to ready money; and if the confidence now placed in the guardians of the public honour is diminished, even that advantage will not in future tempt individuals to trust their money out of their own custody. No diminution of taxes, or other contingent advantage, can compensate for such a privation; nor is it to be compared to a repayment of the principal at any time, however inconvenient, for it is not to be supposed that any one would prefer a sudden and absolute privation of one fourth of his whole income, to the casual and distant resumption of 10 or 15 per cent. on his capital, not to be effected without an equivalent payment, which may be delayed by accident, or frustrated by necessity.

The injustice of the present plan appears in this, that it is calculated to mark out all the great companies, and to benefit the borrowers at the expence of the lenders. But this is not the whole extent of the evil. A double duty is incumbent on the legislature; to use their utmost exertions towards paying the national debt, and to avoid creating distresses and discontent. Now the whole number of persons interested in the stock to be affected by the proposed measure, is about 23,000, of these upwards of 6,000 are in-

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terested as executors, administrators, and trustees, and upwards of 17,000 are possessed only of sums not exceeding 1,000*l.* The executors and trustees must be greatly embarrased, especially if the sums committed to them are small, in perfecting the purposes for which they are confided; and those who possess such small sums as do not amount to 1,000*l.* must be much distressed by so unexpected and wanton a reduction of their income.

The minister, in the course of these observations, took an ample review of the Bill, which he shewed to be unequal to the ends it was designed to answer. He proved that the alternatives of the proposition, produced repugnant and discordant effects; and that the plan was destructive of the purposes, and inadequate in benefit to the Sinking-Fund.

On this head, he should beg leave to take notice of a circumstance that personally alluded to him. Gentlemen had discussed, in the course of the debate, the advantages which had been derived from the plan of reducing the national debt from 6 to 5 per cent. which he had the honour of proposing to the House. They had conceived it impossible for him to resist a similar reduction from 4 to 3 per cent. without the grossest inconsistency. But he was free to declare, that he could oppose the present Scheme without subjecting himself to that imputation. It became his duty, on the authority of the former Scheme, to give his negative to this, because no two Schemes ever differed more widely in their intention, effect, and consequences.

He then stated the difference between the present Scheme, and that which he had proposed. This Scheme, he observed, is compulsory, mine was optional. On the former occasion, money was prepared; on this, it was yet to be raised. My Scheme laid the foundation, this reverses the whole system of the Sinking-Fund. Mine was founded upon converting numbers of years at higher rates, into perpetuities at lower rates. This plan establishes terms of years at higher rates, in lieu of perpetuities at lower rates, after an expiration of twenty years of the former terms. This was intended to lock up the Sinking-Fund for several years, of which the shortest term was not less than twelve, and the longest forty-seven. During this time, all reduction of interest would be prevented, all abolition of taxes rendered impracticable, and a necessity imposed of laying fresh burthens in case of emergency. Whereas mine had a contrary tendency; a million of the debt might be annually discharged, or some of the existing taxes might be abolished, or the imposition of fresh taxes prevented, by applying the surplusses of the Sinking-Fund to the current service.

The declared intention of the Bill is, to give ease to the subject; and the title specifies immediate ease. But its tendency is calculated to violate this very principle, and to falsify the title, for no ease can be given, until the reduction has taken place, and that event is distant, uncertain, and precarious. In fact, the present disadvantages of the Scheme proposed by the honourable gentleman, evidently appear from the affectation with which he expatiated on his love to posterity. For certain it is, that his Scheme cannot benefit the present generation, but its salutary effects will principally be confined to those who are yet unborn.

Sir *John Barnard* answered in substance as follows:

I am very much obliged to the hon. gentleman, Sir, and therefore I thank him for vindicating me from the imputation of having had any private conversation with him, or of having ever had any concert with him; and if he is afraid lest people should suspect his having had a hand in the Scheme I proposed to you, I shall be equally just to him by declaring, I never had any private conversation with him about it, nor did I so much as ask his approbation or consent to what I was to offer; but as to the Scheme as it now stands, every gentleman that hears me knows, it is very different from what I offered; and every one likewise knows that the new model, which is the model we have now before us, if it was not offered by the hon. gentleman himself, it was at least offered by some of his friends, and what they proposed was agreed to by other gentlemen, in order that we might have their assistance in carrying it through. Therefore the Scheme now before you cannot properly be called mine; and it is very remarkable, that all the objections made to the Bill, are only to those articles and clauses of it, which relate to the improvements and additions made to my scheme, by the hon. gentleman's friends.

Mr. *John Howe* stood up, and among other things, took notice, That the scheme then before them seemed to be like a bastard-child that had several re-

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puted fathers, neither of whom would own it; for his part, he said, he thought it a very hopeful child, and therefore if no other gentleman would take it as his own, he would; for he did not doubt of the child's thriving, and if he did, it would be an honour to its parents.

The Speakers in this debate, were as follows; viz. For committing the Bill, Sir John Barnard, Sir Wilfred Lawson, the lord Baltimore, Mr. John Howe, Sir Thomas Sanderson, Master of the Rolls, Mr. Sandys, sir William Windham, sir Edward Bacon. Against committing the Bill, sir Robert Walpole, sir Charles Wager, Mr. Sloper, Mr. alderman Heathcote, Mr. Knight, Mr. Burrel, colonel Bladen, Mr. Bowles, Mr. Oglethorpe, the lord Sundon, and sir William Yonge. Upon the question's being put, it was carried in the negative, by 249 against 134; which put an end to the affair for this session.

PROCEEDINGS IN THE LORDS RELATING TO THE MURDER OF CAPTAIN PORTEOUS: AND THE BILL AGAINST THE PROVOST AND CITY OF EDINBURGH.*] March 3. The duke of Newcastle presented to the House, according to the fourth and fifth Resolutions of Feb. 10, an authentic copy of the Trial of captain Porteous, and all the proceedings relating thereunto; and also the Accounts transmitted hither of the Murder of captain Porteous,

* See vol. 9, p. 1274, Note.

"The Speech from the throne noticed the late disturbances, but without any specific mention of the Tumult at Edinburgh. It was answered by loyal addresses from both Houses, expressing their abhorrence of such outrages, and their resolution to support the royal authority in suppressing all riotous and seditious attempts, which threatened the very being of the constitution. The minister, however, seems to have been embarrassed in what manner to introduce the inquiry. Fortunately, lord Carteret relieved him from this dilemma. Although he was in violent opposition to the measures of administration, yet he justly thought that the indignity committed against the established government, should not remain unpunished. He accordingly referred to that part of the Speech which alluded to the Tumults in various parts of the kingdom. After arguing that these riots did not proceed from disaffection to government, and complaining, that notwithstanding the power with which the civil magistrate was armed, the military force had been employed in suppressing them, he adverted to the murder of captain Porteous, which he particularly stigmatised as a most atrocious deed; observing that the conspiracy which had effected it was the more dreadful, because it was concerted and executed with great deliberation and method, and was attended with no other disorder. He was of opinion, that some citizens of Edinburgh had been concerned in the murder; that the magistrates had encouraged the riot, and that the city had forfeited its charter; he concluded with expressing hopes that an inquiry would be made into the particulars and circumstances of the case.

"The duke of Newcastle and the lord chancellor, after contending for the necessity of employing the military force in suppressing riots and putting the laws in execution, and justifying the reprieve of captain Porteous, did not resist or promote the investigation proposed by lord Carteret; they only argued for a general inquiry into the causes and circumstances of the riot, and not for a specific inquiry into the disturbances. Carteret, in reply, maintained the necessity of a particular inquiry, and of confining it to the Tumult at Edinburgh. The earl of Ilay, after opposing the forfeiture of the charter, and observing that the outrages had originated from disaffection to government, declaring himself in favour of a particular inquiry, and expressed his readiness to join in any proposition for that purpose. A motion was accordingly made by Carteret, for the attendance of the magistrates, and other persons who could give the necessary information, and for an address to the King, that copies of the trial of captain Porteous, and the account of the murder, should be laid before the House.

"In consequence of this motion, which passed without opposition, the respective documents were produced. In examining the proceedings of the trial, it plainly appeared that Porteous was fully justified, from the principles of self-defence, in firing upon the mob, and that the reprieve granted by the queen was founded on law and justice; and as the constitution of the criminal law in Scotland was different from that in England, it appeared incomprehensible to most of the peers, that a person could be condemned to death, upon a verdict so inconsistent with common justice. Accordingly, it was suggested by Carteret, to declare the verdict erroneous; this proposal was opposed by the earl of Ilay and the lord chancellor, and no motion was made.

"Having thus justified the proceedings of government, the next object was to discover those who were concerned in the murder, and to punish all who either concerted or connived at it. The magistrates of Edinburgh, the commander in chief of the forces, Lindsay, member for the city, as well as the Scots judges, were severally and separately examined at the bar. Their allegations, however, were confused and unsatisfactory; but proofs appeared that the magistrates had not been sufficiently active in preventing the rising of the mob, or in suppressing it when excited. Yet no legal

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and what passed thereupon; together with the Orders and Directions sent from hence relating thereunto; as likewise a copy of the Reprieve of the said captain, granted by her Majesty as Guardian of the Kingdom. And on March 10, the several persons attended according to order, and were called to the bar and sworn: after which the House resolved itself into a committee, to consider of the affair, and agreed to fifteen several Questions or Interrogatories, upon which the Lord Provost and

evidence was obtained to convict them, nor did it appear that any of the citizens had been accessary to the murder, and not a single person was discovered who had been concerned in it. Notwithstanding this deficiency, the majority of the peers thought it necessary to bring in a Bill of Pains and Penalties against the provost and city, for conniving at, or not preventing the perpetration of so atrocious a deed.

"The Bill was opposed in a very animated speech by the duke of Argyle, who contended that it was an *ex post facto* law, punishing a whole community for crimes within the reach of the inferior courts of justice. It was nevertheless carried by a majority of 54 against 22, and sent down to the Commons, under the title of 'An Act to disable Alexander Wilson, 'esquire, from taking, holding, or enjoying any 'office or place of magistracy, in the city of 'Edinburgh, or elsewhere, in Great Britain, 'for imprisoning the said Alexander Wilson, 'and for abolishing the guard kept up in the 'said city, commonly called the town guard; 'and for taking away the gates of the Nether 'Bow Port of the said city, and keeping open 'the same.'

"Such was the title, and such were the penalties of this famous Bill, as it was sent to the Commons. It is certain, the ministerial party in the House of Peers, had not thoroughly considered the nature of the Scottish constitution, as left by the Act of Union; nor was the evidence sufficient for justifying the severities contained in the Bill. Wilson, the lord provost, was a weak well-meaning man, and had acted to the best of his courage and capacity; and the greatest imputation fixed on him by evidence, was his not having been active in arming the citizens the day before the riot had happened, when only vague rumours were whispered. With respect to the penalties inflicted upon the city of Edinburgh, doubts were raised whether they could regularly be imposed, even by a British parliament, consistently with the articles of Union.

"Accordingly, the opposition was violent and strenuous; most of the persons who had appeared at the House of Lords, were again examined before the Commons; petitions were received, and counsel heard against the Bill. The Scottish members who were affected by the stigma to be affixed on their capital, and looked upon the question as a national concern, uniformly opposed, and many of them, particularly Duncan Forbes, the lord advocate of Scotland, displayed great abilities. On every reading it produced fresh debates, and in one instance, was carried only by the casting voice of colonel Bladen, the chairman of the committee.

"Walpole spoke only on the first reading, and then he said but a few words in reply to those who objected to the Bill, because it originated in the House of Lords. He observed, that he was as jealous of their right as any other gentleman could be, but thought too scrupulous a jealousy at this time might be attended with the worst consequences. In reply to an observation of Duncan Forbes, that tenderness ought to be shewn to the corporations and boroughs which the Commons represented, especially those of Scotland, he urged that the commitment of the Bill was the greatest mark of tenderness which could be shewn. It was to punish, in an exemplary manner, a practice that had been too much encouraged; a practice, which if not suppressed, must destroy the right of all corporations, and perhaps abolish the privileges of the House, and the very form of the constitution. He concluded, by saying, that gentlemen would not oppose the Bill without better reasons than any that had yet appeared. He did not enter into the merits, or discuss the proofs of the objections urged by the Scottish lawyers, but left those points to be argued by the attorney and solicitor general. He by no means made it a ministerial question. In the House of Lords, some of his friends had promoted and others resisted it, and on one question, the duke of Newcastle and lord chancellor Hardwicke had voted on different sides. The same circumstance occurred in the House of Commons. Some of the most violent opposers of government befriended the Bill, and others absented themselves while it was depending. He was most anxious that the queen should be justified for granting the reprieve, and that some punishment should be inflicted on the magistrates, as an example to deter others, and to render the civil power responsible for outrages committed in their jurisdiction: a salutary and essential act of policy.

"When these points were gained, he was not inclined to enforce the penalties. He suffered therefore the Bill to be modified and mitigated. That part which ordered the abolition of the city guard, and the demolition of the gates, was omitted, and in the whole was reduced to an act 'For disabling Alexander 'Wilson, the provost, from taking, holding, or 'enjoying, any office, or place of magistracy, 'in the city of Edinburgh, or elsewhere, in 'Great Britain, and for imposing a fine upon 'the said corporation, of 2,000*l.* for the benefit 'of the widow of Porteous.' The Bill, however, thus mitigated and rendered stingless, met with unceasing opposition, and after having narrowly escaped being thrown out, was sent back to the Lords, who agreed to the amend-

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four bailiffs of the city of Edinburgh in the year 1736, were examined. The same day, a Message was sent to the Commons, desiring they would give leave to lieutenant-general Wade and Patrick Lindsay, esq. members of that House, to attend,

ments, and it finally received the royal assent.

"While this act was in agitation, another passed the Lords, and was sent down to the Commons, 'For the more effectual bringing 'to justice, any persons concerned in the barbarous murder of captain John Porteous, and 'punishing such as shall knowingly conceal 'any of the said offenders.' This Bill was of a severe nature, and was directed to be read, for a stated time, by the established clergy of Scotland, in their pulpits, every Sunday. Amongst other clauses, it contained an indemnity to any person who was concerned in the murder, provided he discovered and convicted an accomplice, before the first of February. This clause was added to the Bill by the Commons, as was also another, promising 'a reward of 200*l.* to any one who should discover, 'and convict, by their evidence, any person 'concerned in the murder.' These provisions were by many thought too severe, and censured as giving too great encouragement to informers. The Scots, when the act was read to them, treated it with the utmost contempt; and though many thousands were publicly concerned in the murder, and some of them tried, yet none were legally convicted. These proceedings augmented the unpopularity of the minister, by inflaming the resentment of Scotland, and facilitated the efforts of the duke of Argyle, to return, at the next elections, a majority of the Scots members in favour of opposition." Coxe's Walpole.

The following important Documents are taken from Coxe's Memoirs of sir Robert Walpole:

MAJOR GENERAL MOYLE TO THE DUKE OF NEWCASTLE.

On the Murder of Captain Porteous.

"My Lord; Edinburgh, Sept. 9, 1736.

"I think it my duty to acquaint your grace with what happened here last Tuesday night, about a quarter of an hour after ten. Being then in my bed, colonel Pears, who commands lieutenant-general Sabine's regiment in the Cannongate, came and told me he heard there was a great disturbance in the city, on which I immediately ordered him to assemble the six companies quartered here, and to parade them near the guard in the Cannongate, and to send for the three Companies from Leith, which was done with as much expedition as possible, for some of the companies are quartered a great distance from the Cannongate. I dressed myself as soon as possible in order to join the regiment. I was scarce dressed when Mr.

to be examined in relation to the Murder of Porteous; and Major Poole, whose name had been mentioned in the aforesaid examination, was ordered to attend on Wednesday then next.

March 16. Thomas Young, treasurer of

Lindesay came to me, and told me there was a great mob in the city.

"It then wanted but fourteen minutes of eleven. He assured me they had got possession of the city gates, and that with much difficulty he got out at a small wicket, and was obliged to come round by the King's Park. He made no demand of a guard to assist them; but I told him I had ordered the regiment to be under arms, but that I could not force any of the town gates, or give orders for attacking the mob, without a legal authority from the Lord Justice Clerk, or some other of the lords of the justiciary, for it was from one of them I had received all orders relating to the military, since I came into the country. I then asked Mr. Lindesay if Lord Justice Clerk or any other of the lords of the justiciary were in town. His answer was, that neither the Justice Clerk or lord Royston was in town, but lord Newhall was; but there was no getting to him; on which, knowing the Justice Clerk lived but two miles and a half off the town, I desired Mr. Lindesay to write immediately to him for his directions, what he would have the troops do; and sent the letter by my own servant, who galloped all the way. My lord being in bed, he got no answer from him till near one of the clock. The letter was directed to Mr. Lindesay, so I never saw the answer; and long before it came, the poor man was hanged by the mob. By what I since hear he was executed before Mr. Lindesay came to my house, for they got him out of prison a little after ten.

"It was a great oversight that the poor man was not put into the castle as soon as his reprieve came for him, that being the only place to secure him from the rage of the mob. This unheard-of barbarity had been concerting several days; and I am surprised the magistrates were not more upon their guard. The town soldiers, instead of resisting, delivered their arms to the mob. The turnkey of the prison owned he had a hint given him in the morning that the prison would be attempted to be broke open that night, and that he acquainted the gaoler of it, and desired him to make it known to the lord provost, that care might be taken to prevent it. The magistrates were drinking together in the parliament-close when the mob first assembled, but did not take care to read the proclamation, which was a very great neglect in them. On their suspecting the mob would rise that night, the care of the port next to the Cannongate ought to have been immediately put under the guard of the king's forces, and then the communication between the city and suburbs would have been kept open.

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the city of Edinburgh in the year 1736, whose name had likewise been mentioned in the aforesaid Examination, was ordered to attend, if in town; and on the 17th, the House, having again resolved itself into the said Committee, agreed to eleven Questions or Interrogatories, upon which captain Lynd, who was captain of the city-guard of Edinburgh, the night Porteous was murdered, was examined; after which the Lord Provost was again called in, and examined as to any, and what endeavours

"I have to add, that had the troops forced their way into the town by demolishing one of the gates, without a legal authority, your grace would soon have had a terrible complaint from the magistrates. The regiment here are much fatigued, having lain two nights on their arms. I cannot but mention to your grace that this is the third prisoner, within the memory of man, that has been taken out of a tal-booth here, and barbarously murdered by the mob. They charge me with procuring Porteous's reprieve, and threaten to murder me in my bed, or set fire to my house; but I despise them all. I do not hear that any of the criminals are yet apprehended, though well known by many of the inhabitants of the town."

Narrative of the Tumult at Edinburgh, on Tuesday the 7th day of September 1736. *Sent by Andrew Fletcher (Lord Chief Justice Clerk) to the duke of Newcastle.*

"Friday, the 3d of September, the lords of justiciary served an order upon the magistrates, intimating a reprieve for John Porteous, for six weeks. On Saturday, the 4th, there was a surmize that a mob intended to set fire to the prison on Wednesday night, the 8th of September, if Porteous was not executed that day pursuant to his sentence. This was carefully inquired into by the magistrates, but they could not discover any foundation for the report. On Tuesday the 7th, about a quarter before ten at night, the magistrates had notice that a few boys had seized the drum of the suburb of Westport, and beat it in the Grass-market, within the city. About six minutes before ten they sent to the captain of the guard, to have his guard immediately under arms; but a few minutes before the clock struck ten, a mob suddenly rushed in upon and surprized the guard, and at once drove them from the guard-room and seized all their arms, being 90 firelocks in number, besides several Lochaber axes, and distributed them among themselves, and almost at the same time made themselves masters of all the gates of the city.

"The lord provost and magistrates hereupon immediately dispatched Patrick Lindesay, esq. late provost of Edinburgh, to general Moyle. This gentleman, who was well known to the general, finding the Nether Bow Port shut, and in possession of the mob, made shift to get out at the Potter Row Port, and went through the park, and got to the general's house at Abbay-hill a quarter before eleven. The general, having notice before of the mob at the Nether Bow, had ordered all the men in the Cannongate and Westport to be under arms; and upon provost Lindesay's application, likewise ordered up the three Companies from Leith, to join those in the Cannongate; but in regard that all the gates were locked up and barricaded by the mob, refused to allow any man to march without a warrant from the Lord Justice Clerk, or a lord justiciary, who happened then to be all out of town.

"Immediately after the mob had seized the guard, they attacked the gaol; and the magistrates, with several of the members of council and deacons of crafts, attempted to disperse them; but the mob threw stones so violently at them, and threatened to fire, they having furnished themselves with shot by breaking open the shop of one Alexander Dunning, wherewith they had loaded the pieces they had seized in the guard; and having wounded several of those who attended the lord provost and magistrates with stones, Lochaber axes, and butts of muskets, obliged them to retire.

"The mob, finding themselves absolutely masters, immediately set fire to the prison gate, and in about an hour it was so much consumed by the fire that the mob beat it to pieces, and rushed into the prison, seized the turnkeys within, and forced them to open every ward in the prison, dismissed all the prisoners, and then laid hold of captain Porteous, dragged him down stairs, and hurried him up the Lawn Market-street, down the West Bow to the Grass-market, where they broke open a shop, and took out a coil of ropes, and tied one end of it about his neck, and threw the other over a dyer's tree hard by the common place of execution, and pulled him up and hanged him. About a quarter before twelve o'clock at night, several attempts were made to take down the body, but the mob beat every one who made such a proposal, till about day-break a few members of the council and some neighbours got the body taken down, and laid it in the Grey Friar's church."

ANDREW FLETCHER TO THE DUKE OF NEWCASTLE.

"My Lord Duke, Sept. 16, 1736.

"Yesternight I had the honour of your grace's letter of the 12th instant; and in obedience to her majesty's commands, this morning I met with the magistrates of this city to consult the proper measures for restoring and preserving the peace of the city, and for discovering the authors and actors of the late wicked and audacious proceedings. Besides the precautions I had the honour to acquaint your grace by my last had been taken for maintaining the peace of the city, by order of the magistrates and common council, two Companies of the Trained Bands, consisting

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had been used by him, to discover those concerned in the murder of Porteous; and as to some other matters which had occurred after that riot; and the abovementioned Patrick Lindsay, esq. having had leave from the Commons, did attend, and was examined as to his knowledge of what happened relating to this affair; as was also general Moyle, commander in chief of his Majesty's forces in Scotland, at the time this affair happened.

March 18. Colonel Durcure, lieut.

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of about 200 burgesses and inhabitants, have kept guard every night, attended by one of the magistrates, and are to do so while there remains any suspicion of disturbance; and they are all furnished with firelocks and bayonets from the city's armory. As the soldiers of the city guard are so intimidated that they are unfit for service, which evidently contributed to the insolence of the mob, an order is made by the magistrates to dismiss them, and inlist able bodied men fit for the service. They were generally old decayed tradesmen or day labourers: and if a method could be fallen on to supply this guard at once with well disciplined men from the regiments of foot in Scotland, I humbly think it would contribute greatly to strengthen the hands of the magistrates in maintaining the peace of the city. The present guard consists of three serjeants, three corporals, and about eighty private men. There has been no disturbance since the 7th, nor do I apprehend any till such time as some of the guilty come to be apprehended, and then we must be upon our best guard.

"As this outrage was committed not by an ordinary sort of mob guided by sudden rage, but by a well contrived scheme, executed by a cool resolute gang, taking evidently to themselves authority over the mob, and restraining them from every folly but the wickedness they had determined to perpetrate, to which they kept them close at work; there is great reason to believe that some of that abandoned gang of smugglers had a chief hand in all this. One of the first things they were observed to do was to liberate two smugglers then in prison; and all this being done in the night time, though some moon light, it was not easy for by standers to know persons in the least disguise. Some of the magistrates and I have spoke with several persons who were eye-witnesses to most of the tragical scenes, and yet did not know one of the actors, though they spoke to some of them. I have got some hints of some of the principal actors, but doubt much of getting evidence against them, except from such as if they were not actors were at least abettors, and they will never speak out, I am afraid, unless they be assured of their pardon, and also some encouragement of living elsewhere, in case, as they all dread, they could not live here, if they make any discovery. As there is an end of government, if such practices be suffered to escape punishment, and as it is of the greatest consequence to discover the contrivers of this barbarity, all methods are set agoing to make the discovery, of which I shall from time to time take the liberty to acquaint your grace. I have, in obedience to her Majesty's commands, sent an express to the lord advocate to come immediately to Edinburgh. I had formerly wrote to the solicitor general, and have his answer that he is to be here to-morrow. May I beg your grace to assure her Majesty that I shall, with dutiful zeal, endeavour to obey her commands, by doing all that lies in my power to preserve in the most effectual manner the peace of the city of Edinburgh?"

THE EARL OF ILAY TO SIR ROBERT WALPOLE.

On the Assassination of Captain Porteous.

"Sir, Edinburgh, Oct. 16.

"I have not writ to you since I came here, because I almost every post gave the duke of Newcastle an account of any thing that occurred, and there remained nothing to trouble you with that could deserve your attention. It is a great concern to me to find it so difficult hitherto to make discoveries of the murderers. I am sure there is all the pains taken in it that is possible, and I never before had the pleasure to see all the king's servants here act so uniformly together in the discharge of their duty. On the other side, the secret patrons of the mob seem to be as busy in preparing false evidence to acquit the criminals as we all can be to bring them to justice. They that are in prison have already in their mouths the names of persons who, they say, will swear to their innocence, that is, their accomplices in the murder will easily perjure themselves to save their friends. The most shocking circumstance is, that it plainly appears the high flyers of our Scotch church have made this infamous murder a point of conscience. One of the actors went strait away to a country church, where the Sacrament was given a vast croud of people, as the fashion is here, and there boasted of what he had done. All the lower rank of the people who have distinguished themselves by pretences to a superior sanctity, speak of this murder as the hand of God doing justice; and my endeavours to punish murderers are called grievous persecutions. I have conversed with several of the parsons, and I observe that none of those who are of the high party will call any crime the mob can commit by its proper name. Their manner of talking, were it universal, would extirpate religion out of the world for the good of human society; and indeed I could hardly have given credit to the public reports of the temper of these saints, if I had not myself been witness of it, and been admonished by one of them to have regard to the divine attribute of mercy (in English) to protect the rebels and murderers.

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colonel to the regiment of foot commanded by lieut. general Whetham, was ordered to attend, his name having been mentioned in the former examinations; and the same day a motion was made by lord Lovell, That the Lord Justice Clerk of Scotland be ordered to attend. The reason of this motion was founded upon a Letter of lieut. general Wade's then on their table, from which it appeared, that it would be necessary for them to examine the Lord Justice Clerk, and as the session would not probably last long, they ought to send for him as soon as possible. To which it was added, that it appeared likewise from the trial of Porteous, then on their table, that it would be necessary to examine the Lord Justice Clerk, who was the chief and presiding judge upon that trial.

To this it was answered, That the ordering of any particular gentleman to attend, would be a sort of impeachment upon his character, which was a slur they ought not to throw upon any gentleman, without some appearance of guilt; for, as they would scorn to skreen any man against whom there appeared the least suspicion, so they would scorn to attack any man in an indirect manner. That, as to the Letter upon their table, they could not properly make it a foundation for any order, till they had examined general Wade himself as to the contents; and as to the trial of Porteous, the Lord Justice Clerk was but one, of four or five judges then upon the bench, and ought not therefore to be made to answer singly for any part of that trial.

The motion was supported by the duke of Montague, lord Carteret, and lord Bathurst; and opposed by the earl of Ilay, the lord Hervey, the duke of Newcastle, the duke of Argyle, and the earl of Warwick; and the duke of Newcastle having moved to adjourn, the question was put, and carried for adjourning. Contents present 45, Proxies 20,—65. Not Contents present 39, Proxies 9,—48. Although the other motion was not then agreed to, yet as the Lord Justice Clerk was the chief officer of state in Scotland, at the time of Porteous's murder, and consequently the chief person entrusted with the civil government of the country; and as it appeared by all the examinations, that he was neither in town when that mob happened, nor came to town when he was apprized of the tumult, though very near to it, it is probable this motion would have been revived, and agreed to as soon as general Wade should be examined. However, on Monday following the duke of Newcastle moved, That the aforesaid Lord Justice Clerk, together with the lord Dun and the lord Royston, the two senior judges of that court, be ordered to attend; which motion was agreed to.

Lieut. General Wade, and several others were afterwards examined, and the Committee having considered their examinations, came to several Resolutions, which were reported and agreed to, April 3. Whereupon Alexander Wilson, esq. the aforesaid Lord Provost of Edinburgh, was ordered to be taken into the custody of the gentleman-usher of the black-rod: but upon April 19, following, he was admitted to bail, in order to prepare himself for being heard by his counsel, and the following Bill was ordered to be brought in, 'To disable the said Alexander Wilson, esq. from 'taking, holding, or enjoying any Office or 'Place of Magistracy in the City of Edin-

"Under these and other difficulties, particularly the dread all the common people are in of being murdered if they make discoveries, the inquiry goes slowly on; but I cannot but hope that by degrees this matter will come to light. I have had great difficulty to prevent mischief between general Moyle and Mr. Lindesay. Moyle says that Lindesay was drunk, and never asked his assistance. Lindesay says that he told him he came from the magistrates to ask his assistance. I have, as far as it was in my power, enjoined silence upon this subject, or any other of the like nature. The behaviour of the magistrates was certainly worse than can well be imagined, and some of them, I have reason to suspect, were wilfully neglectful; and at the late elections at Michaelmas endeavoured to do all the mischief they could. I spoke to several of the present magistrates the other day, and told them that if they could not or would not show the people of England that the peace of the city of Edinburgh can be maintained, and such vile criminals be detected and brought to justice, I was apprehensive that the parliament would apply remedies very disagreeable to them; and, upon such an occasion as this, none of their friends would be able to protect them. They promised me to show such a spirit as to clear them of all imputation of want of zeal in the support of the laws. There shall be an experiment made in two days. A proposal shall be made to them by one of their members, to make an order of their town council for the examination of every merchant and every tradesman in the city concerning the apprentices and servants they had on the day of the tumult, and who have absconded since: this will be of use many ways in the further progress of the affair."

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'burgh, or elsewhere in Great Britain: 'and for imprisoning the said Alexander 'Wilson; and for abolishing the Guard 'kept up in the said City, commonly called 'the Town-Guard; and for taking away 'the gates of the Nether-Bow-Port of the 'said City, and keeping open the same.'

"Whereas upon Tuesday the 7th day of September, in the year of our Lord 1736, there was a most seditious and outrageous riot in the City of Edinburgh, in that part of Great Britain called Scotland, notoriously concerted and carried on by great numbers of wicked, disorderly and blood-thirsty persons, who did with open force and violence, seize the arms of the city-guard, possess themselves of the city-gates, and by setting fire to, and breaking open the door of the Tolbooth of the said city, did unlawfully and audaciously rescue and set at large several criminals therein confined: and whereas captain John Porteous, then a prisoner there under sentence of death, but graciously reprieved by the queen's most excellent Majesty, as guardian of the realm, was by the said rioters in a cruel manner dragged from the said prison, and most barbarously hanged by the neck, and murdered in manifest violation of the public peace, in defiance and subversion of legal government, in high contempt of our sovereign lord the king, and his laws; and to the most presumptuous and unparalleled obstruction of the royal mercy: and whereas, for some time before the committing of the said murder and riot, it was commonly reported in the said City of Edinburgh, that some atrocious fact would be attempted, which, by proper care in the magistrates, citizens and inhabitants of the said city, might have been prevented: notwithstanding which Alex. Wilson, esq. then actually resident in the said City, and now Provost of the said City, and fully apprised of the said wicked design, did not take any precautions to prevent the said murder and riot, nor use the proper or necessary means to suppress the same, or to preserve the peace of the said City; or after the perpetration of the said fact, to discover, apprehend or secure the authors, actors or abettors thereof, in manifest violation of the trust and duty of his office of chief magistrate of the said City; nor were any means or endeavours used by the citizens and inhabitants of the said City, to prevent or suppress the said notorious riot, or to hinder the said inhuman and barbarous murder, or to discover the persons concerned therein, in order to bring them to justice: now, in order to express the highest detestation and abhorrence of the said murder and riot, and to the end that the said enormous misbehaviours and neglects of duty, herein-before mentioned, may not go unpunished, and that other persons may not presume, through hopes of impunity, to be guilty of the like of the future: be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present parliament assembled, and by the authority of the same, That the said Alex. Wilson be, and he is hereby, from and immediately after the passing this act disabled and made incapable to have, hold, exercise or enjoy the said office of provost of the said City of Edinburgh: and that he the said Alex. Wilson be, and he is hereby for ever hereafter, disabled, and rendered incapable, to have, hold, exercise, or enjoy any office or place of magistracy in the said City of Edinburgh, or elsewhere in Great Britain.

"And it is farther enacted by the authority aforesaid, That a new Provost be immediately chosen in the room of the said Alex. Wilson, in the same manner, as if the said Alex. Wilson was naturally dead; and that he the said Alex. Wilson shall be detained and kept in close and safe custody without bail or mainprize during the space of (one whole year) to be accounted from the day of passing this act, in any gaol or prison within the kingdom of Great Britain, to the custody of the gaoler or keeper whereof the said Alex. Wilson shall from time to time be committed, in pursuance of this act, by any warrant under the hand and seal of any secretary of state of his Majesty, his heirs, or successors, which warrant or warrants any secretary of state for the time being, is hereby authorised and empowered to make.

"And whereas the said City of Edinburgh hath, for many years past, kept up a military guard called the Town-Guard, which upon the said late unhappy occasion has appeared to be of no use: and whereas for want of an open communication between the said city, and a place called the Cannongate, adjoining thereto, wicked and disorderly persons are the more encouraged (especially in the night, when the Gates of the Nether-Bow Port of the said City are shut) to attempt to commit disorders and riots in the said City: and whereas it is just and necessary, that the power of keeping up the said guard should be taken

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away, and that the said Nether-Bow Port should be kept open: be it farther enacted by the authority aforesaid, That from and after the 1st day of July 1737, the said military guard, commonly called the Town-Guard, be taken away, and abolished, and no longer kept up; any law, statute, prescription, or usage to the contrary in any wise notwithstanding: and that the then Provost and bailiffs of Edinburgh, on or before the said 1st day of July 1737, shall cause the said Gates of the Nether-Bow Port to be taken down, and that the communication between the said City and Cannongate, be for ever hereafter kept open, both by night and by day; any law or usage to the contrary notwithstanding."

April 4. The above Bill was read a first time, and ordered to be read a second time, the Lord Provost, and the city of Edinburgh, being admitted to be heard by their counsel against the Bill, upon its second reading.

April 26. After several lords had spoken for and against the Sentence pronounced against Porteous, by the high court of Justiciary in Scotland, a motion was made for declaring it erroneous.

The Argument for the motion by lord Carteret, the bishop of Salisbury, and others, was in substance as follows:

My Lords; Although it cannot be supposed that we have, or can have, all the lights which time and circumstances may hereafter discover and manifest, with regard to the trial of the unfortunate captain Porteous, and the sentence passed upon him; yet I think, we have sufficient for shewing us, that that sentence was extremely rigorous, to give it no worse a name; and, as it is an affair, in which the peace and tranquillity of this island, and the safety of his Majesty's subjects, are very much concerned, I am humbly of opinion, we ought not to pass over that severe sentence without some censure.

In that trial, my Lords, the first thing that occurs to our notice is, the interlocutory sentence passed upon the relevancy of the libel, and for directing what matters should be brought in proof at the ensuing trial; with respect to which, there appears to me, at first view, two very material objections. The first proceeds from an error or mistake, as I imagine, with regard to the law of Scotland; and, indeed, of every well-regulated society in the world; and the other is, in my opinion, an evident piece of injustice done to the unfortunate prisoner.

As to the first, my Lords, by that interlocutory Sentence they determined, "That the pannel, or prisoner, having, at any of the times and places libelled, fired a gun among the people assembled at the execution, or having given orders to the soldiers under his command, to fire, and thereupon, they, the soldiers, or any of them, having accordingly fired; and, upon the firing, either by himself or them, the persons mentioned in the indictment, or any of them, were killed or wounded; or, the pannel's being art or part of any of the aforesaid crimes, are, *separatim*, relevant to infer the pains of law." I do not pretend, my Lords, to be fully acquainted with the laws of Scotland; but from the law of reason, which I take to be the law of every country, and, I hope, is the law of Scotland, I must think this determination too general; I think there ought to have been an exception, with regard to his having been first attacked or assaulted by the mob; and, therefore, I must think these words, or some such words, ought to have been inserted: "Unless it should appear, that he or his party were violently attacked or assaulted by the mob, and brought into danger of their lives, or of being disabled from performing their duty."

I am sorry, my Lords, we should ever have occasion to employ a military force, or any thing like a military force, in the execution of the law, or in bringing any criminal to condign punishment; but, in this country, as well as in every other country, the populace are sometimes instigated by selfish and designing men, to oppose the distribution of justice; or, in some cases, perhaps, to take upon themselves an usurped power of distributing justice; and, when any such case as either of these happens, it becomes necessary for the magistrate to make use of a military force, or something like it, in order to execute the laws, or to protect his Majesty's innocent subjects, who happen to be so unfortunate as to incur the resentment of an enraged and unruly populace. In either of these cases, I hope, it will never be established as the law of any part of this island, or any the dominions belonging to it, that those who are called to the assistance of the civil magistrate, shall be hanged for murder, in case they should find themselves under a necessary of firing upon those who violently attack or oppose them in the execution of their duty; for if this were established, or supposed to be established, as the law of the kingdom, it

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would not only greatly encourage tumults, and riotous assemblies, but would make it impossible for the civil magistrate to suppress them, or to prevent whatever mischief the fury of a mob, the malice of private men, or, perhaps the desire of plunder might suggest. Even the civil magistrate himself would run the risque, either of having his brains knocked out by the mob, or of being afterwards hanged by the law, if he should take the proper measures, or give to his assistants the proper and the only effectual order, for defending themselves and dispersing a riotous assembly. For this reason, as the law permits the carrying of fire-arms to those who are called as assistants to the civil magistrate, it must certainly, in some cases, allow them to make the proper use of those arms; and I cannot think any case can happen more necessary for allowing them that liberty, than when some of them are wounded, and their bones actually broke, by the stones thrown at them by the mob; which was the case when that accident happened, for which Porteous was condemned to die, by the sentence now under our consideration.

As I take it to be the law of every country, that neither the civil magistrate, nor any of his assistants, shall be deemed guilty of murder, if they happen to kill any of those who oppose them, or who assault them in the execution of their duty; so I find, my Lords, this case is particularly regulated in Scotland, by an act of Parliament made for that purpose, in the reign of James 6, whereby it is expressly enacted, That neither the magistrates nor people of Edinburgh, nor any person assisting them in preserving the peace, and preventing riots or tumults, shall be prosecuted for the wounding or killing of any person upon such occasions; which is an act so much adapted to the case of Porteous, that I am surprised it was not so much as mentioned at his trial. Whether this law was ever repealed by any future act of Parliament, I do not know; but if it is still in force, I am of opinion, it might have been pleaded even in bar of the indictment.

The other objection, my Lords, is against that part of this interlocutory sentence, which directs, and really confines the prisoner, as to what evidence he was to bring for his vindication. What may be the method of such trials in Scotland, I do not know; but in this country, it is certain the prisoner is allowed to examine whatever witnesses he pleases to call, and to prove all those facts and circumstances he may think proper for his justification. After all his witnesses have given their evidence, it belongs to the jury to consider, whether the facts and circumstances proved, can any way tend to prove the innocence of the person accused, or to alleviate the crime laid to his charge; but surely the court is not to tell the prisoner, or the jury, that he shall not be allowed to examine any witness as to such a circumstance, because it no way relates to the matter in hand; for, sometimes, by examining a witness as to a fact, seemingly very remote, another fact or circumstance comes to light, by which the innocence of the person accused may be made manifest. For this reason, I must think it a most dangerous method of proceeding, to lay any restraint upon a prisoner, with respect to the points he is to be admitted to prove at his trial; and it must be much more so, to confine him to those facts and circumstances only which happened at the time the crime he is accused of was committed. In the case now before us, surely the unfortunate prisoner ought to have been allowed to adduce what evidence he could, with respect to all circumstances which might any way relate to the crime of which he was accused, whether those circumstances happened at, or before, or after the time the crime was said to have been committed; in which case he might perhaps have proved, that he had express orders from the magistrates to fire upon the mob, if they made the least attempt to assault him or his guard, or to rescue the criminal from the hands of justice; and if he had proved his having had such orders, surely he ought not to have suffered for obeying them; for upon the trial it was fully proved, that both he and his guard were assaulted, and some of them wounded, by the mob, before he or any of the soldiers attempted, or so much as threatened to fire; and, I think, it appears upon the trial, that a sort of rescue was actually made; for the duty of the guard was not only to see the criminal hung up, but to see him hang by the neck till dead; that is, till the executioner should, by order of the proper magistrates, cut him down, which never was done: the criminal, as appears upon the trial, was cut down by one of the mob, and was cut down before any magistrate had given an order for cutting him down; which was really, in my opinion, a sort of rescue, and such a rescue as

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would have justified the guard's firing upon those that were guilty of it, if they had proper orders for that purpose.

From what I have said, my Lords, it appears, that the prisoner, in this case, was debarred the privilege of proving what might have justified him upon his trial; which was, in my opinion, doing him a very great piece of injustice in the very first step of his trial; and in all the other parts of the trial, the proceedings against him seem to have been carried on with the utmost rigour; for, considering how widely the several witnesses differ from one another, and how easy it is for men to mistake words upon such an occasion, as well as to mistake the firing one piece for the firing of another, I must think the jury shewed him no favour in their verdict. However, as they likewise found it proved, that the pannel and his guard were attacked, and several of the soldiers bruised and wounded, which was a sort of special verdict, they left it to the judges to do as they thought fit, upon considering and arguing that special verdict; and considering that there was a possibility of the captain's being innocent, notwithstanding the proof that was against him, the judges ought, I think, to have allowed of that attack or assault as an excuse, so far at least as to prevent his being deemed guilty of murder; therefore, I hope, your lordships will agree to this Resolution, "That the Trial and Condemnation of captain Porteous was erroneous in several particulars."

The Argument against the Motion was as follows:

My Lords; As I am convinced there was no secret or mystery in any part of the trial now under your consideration, as it was a public, open trial, according to the laws and the common methods of proceeding in such cases in that country, therefore, I believe, we have now all the lights before us which any future time can discover; and I think we have sufficient lights for shewing us, that the trial was regular, and the sentence just. I shall readily agree with the noble lord, that the peace and tranquillity of the island, and the safety of his Majesty's subjects, were very much concerned in the issue of that trial; for considering how full the proof was against the prisoner, considering how manifestly his guilt appeared to every man present at the trial, if he had been acquitted either by the jury or by the judges, I do not know but it might have occasioned an insurrection in that part of the island; and it would have given occasion to every hot-headed officer, sent upon any command, to have murdered his Majesty's subjects, upon the least affront offered to him by the populace.

I have, my Lords, as great an aversion to mobs, and to all sorts of riotous proceedings, as any man can have, as any man ought to have; and I as heartily wish we never had occasion to employ any thing like a military force in the execution of the law, or in bringing any criminal to condign punishment; yet I think the liberty of firing at random upon any multitude of his Majesty's subjects, is a liberty which ought to be most cautiously granted, and never made use of but in cases of the most absolute necessity; and in this way of thinking I am supported by the whole tenor of the laws of England. It is now three or four hundred years since fire-arms first became in use among us, yet the law has never suffered them to be made use of by the common officers of justice. Pikes, halberts, battle-axes, and such like, are the only weapons that can be made use of according to law by such officers; and the reason is extremely plain, because with such weapons they can seldom or ever hurt, much less kill, any but such as are really opposing or assaulting them; whereas, if you put fire-arms into their hands, and allow them to make the proper use of such arms, they may as probably hurt or kill the innocent as the guilty; nay in cities and towns, where such tumults generally happen, they may kill people sitting in their own houses, or looking innocently over their windows, which all persons are apt to do, but especially women and children, when they hear any hubbub or noise in the streets; and which was really the case in the affair now before us; for one woman was killed in her master's house, by her being unfortunately, but innocently, at the window when the soldiers fired.

For this reason, my Lords, I hope it will never be laid down as a maxim in this House, that any party of soldiers, or others, assisting the civil magistrate, has a power to fire at random upon a multitude of his Majesty's subjects, or in the streets of any town or city; or that any magistrate has, in any case, an unconfined power to give them any such orders; much less to give them orders to fire upon a multitude, which was at first lawfully and innocently assembled together. For there

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are two sorts of mobs or assemblies of the people; one is, when a multitude of people assembles together upon any lawful or innocent occasion, and afterwards happens to become riotous; and the other is, when a multitude of people assembles together with a design to commit some unlawful or wicked action. With respect to the former, the most gentle measure ought to be made use of for dispersing them, because many innocent persons being inveigled into the crowd, it may be some time before they can possibly get away; but, with respect to the latter, as all that are assembled together upon such an occasion must be some way guilty, therefore more rough and violent measures may be made use of for dispersing them, and for preventing the mischief they intended. But in both these cases the law is now certain and indisputable. Your lordships all know that by a late statute, which is in force in Scotland as well as England, the power of the civil magistrate, in the case of any mob or riotous assembly, is fully and distinctly regulated; yet even by that law, which I have often heard complained of as a law not tolerable in a free country, there is no express power given to the magistrate or his assistants to make use of fire-arms; so cautious was the legislature, even at that time, when tumults were more frequent and more dangerous than they are at present, of giving a legal authority for the making use of such weapons. After reading the proclamation, and after giving the mob an hour's time to disperse themselves, and to depart to their habitations or lawful business, the peace-officers may then, by that law, seize or disperse those who shall afterwards continue unlawfully assembled; and if any person, by resisting them, shall happen to be killed, maimed, or hurt, the peace-officers and their assistants are indemnified; but I doubt much if a magistrate would be indemnified, even by this law, should he take the short way of dispersing a mob, by ordering his assistants to fire among them, and should thereby kill any person who had committed no overt act of resistance; especially if it should appear, that he had fired upon the mob without any necessity for so doing, and even without any extraordinary provocation.

In such a case, my Lords, if the magistrate, or any of his assistants who did fire, were to be prosecuted by the laws of England, I believe he would be brought in guilty, at least of manslaughter; and, as what is deemed manslaughter by the laws of England, is generally deemed murder by the laws of Scotland; and as every killing is deemed murder by the laws of that country, unless it happens by chance, or *se defendendo*, therefore the judges had no power, by the laws of that country, to add any such exception as has been mentioned, to the interlocutory sentence; nor did the prisoner pretend to found his innocence or his defence upon any such exception; for both he and his lawyers were very well convinced, there was no pretence for such an argument from any of the laws of his country. And with respect to that of king James 6, which was mentioned by the reverend prelate, I am not at all surprized it was not pleaded, or so much as mentioned by the counsel for the prisoner; on the contrary, I am rather surprized it was not made use of against him; for from that law it appears, that his firing, or giving orders to fire, was downright murder. That law was made for preventing or quelling riots and tumults within the city of Edinburgh; for which purpose the magistrates of that city are enabled, with the king's allowance, to raise soldiers on pay, to use haquebuts and all other arms when they shall think expedient; and if any person resisting the said magistrates in the quelling of any riot, shall be hurt or slain, the magistrates and their assistants are indemnified; providing such hurt or killing was with long weapons, and not by shooting haquebuts, or the like. I need not acquaint your lordships, that haquebut was the name then used in that country, and formerly in this, for fire-arms; and that by long weapons was meant halberts, battle-axes, and such weapons as are commonly used by all assistants to officers of justice, in that part of the island as well as this. Thus your lordships see, that killing with any sort of fire-arms was expressly excepted out of that law; and therefore that law was so far from being in favour of the prisoner, that there might from thence have been drawn a very strong argument against him.

I know, my Lords, it will be said, that the officers of Justice and their assistants, especially his Majesty's troops, when they happen to be called to the assistance of the civil magistrate, are in a very unlucky situation, if they are not to be allowed to make use of the arms in their hands, for preventing their being knocked on the head with stones and brick-bats. This I shall readily grant, and I wish some pro-

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per regulation were made for the direction and security of the gentlemen of the army; but we are now to consider the law as it stands at present; and as the law now stands in England, as well as Scotland, if an innocent person suffers death by firing, especially if that firing was before any proclamation read, the person that fired, and he who gave him orders to fire, might both be prosecuted for murder; I am afraid neither of them would have any resource but in the King's mercy. The soldiers may, upon such occasions, make use of their screwed bayonets for dispersing or seizing the rioters; by so doing they can hurt none but those that resist them; but I would not advise them to fire, unless they should find themselves in very great danger of being overpowered, and perhaps murdered by the mob.

As for the objection against this interlocutory sentence, it is founded entirely, my Lords, upon the method of proceeding, and may be an objection against the laws of that country, but can be no objection against this trial in particular. In that country the prisoner has a copy of his libel or indictment delivered to him, and has time allowed him to consider and consult with his lawyers, what defence he thinks proper to make. These defences are afterwards considered by the court, and if they observe any facts that can any manner of way contribute towards his justification, he is allowed process of summoning witnesses to prove such of them as are denied by the prosecutors; but if they be such as can no manner of way contribute towards his justification, or such as are admitted by the prosecutors, he is not allowed to take up the time of the court with impertinent or needless examinations; and the reason of this is, because the examination of witnesses is in that country carried on in a more tedious, but a much more certain and solemn manner than in this. The evidence of every witness is taken down in writing by the clerks at the table, and after he has been fully examined and cross-examined, his evidence is read over to him, and he must sign or put his mark to it, in order that it may remain as a record against him, in case it should ever afterwards appear that he had wilfully perjured himself in the least article of his evidence. Though this method carries along with it a great security against perjury, yet it has laid the criminal courts there under a necessity of restraining the prisoner, and confining him to the proving of those facts that are material, and denied by the prosecutor; but this can never be any disadvantage to a prisoner, or to a person indicted, unless the court should exclude him from proving what was really material; and if the court should do any such thing, the jury would probably consider it in their verdict.

This method of proceeding, my Lords, may perhaps appear a little extraordinary to most of your lordships, who have always been accustomed to a different method; but this method has certainly some advantages, which the method observed in this country has not; and let this method be good or bad, it is the method of proceeding established by the laws of that country, which cannot be altered by any court, or by any judge. If it could be said, that the court of justiciary in Scotland had debarred Porteous from proving any facts he desired leave to prove, some objection might then be made to the trial; but the truth is, as will appear upon the face of the trial, there was not any fact he desired leave to prove, but what was either admitted by the prosecutors, or he was admitted to prove; and particularly as to his having had previous orders from the magistrates, all he contended was, that he had orders from the magistrates to make his guard charge with shot, and even to fire among the mob in case of resistance; and he did not so much as desire, nor was there any occasion for his desiring leave to prove this fact, because it was admitted by the prosecutors in their pleadings, and was likewise admitted in their printed information; nay, there was not any one fact, nor any circumstance in his behaviour, either before or after the committing of that crime, upon which he could pretend to lay the least stress with respect to his vindication, but what was either admitted by the prosecutors, or he was admitted to prove; so that I am surprized to hear it so much as insinuated, that the least injustice was done him in this respect. On the contrary, by the whole tenor of the trial, it appears he rested his innocence intirely upon a flat denial that he either fired, or gave orders to fire.

And now, my Lords, with respect to the Jury, I must think it a little hard; I believe it is not usual for your lordships to pass any censure upon the verdict of twelve men delivered upon oath. Besides, these twelve men were all either gentlemen, or substantial merchants or tradesmen; they

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were none of the mob, nor were there any talesmen among them: they have no such thing in that country; when it comes to a gentleman's turn to attend upon a jury, he must attend; he cannot excuse himself by giving a shilling or half a crown to the sheriff's officer. These gentlemen were, perhaps, personally acquainted with many of the witnesses, some of them were perhaps themselves at the execution; and therefore it must be allowed, they were better judges what credit was to be given to the several witnesses, than any of your lordships can be. It was positively affirmed by several witnesses, that they saw Porteous fire; it was positively affirmed by several others, that they heard him give orders to his guard to fire; other witnesses said, they did not see him fire, and that they heard him call to his men not to fire. Both these might have been true; but suppose they could not, surely, the gentlemen of the jury were better judges which side they ought to give credit to, than any Lord of this House can now pretend to be; and their having brought in a special verdict, is to me a full proof they were, what every jury ought to be, altogether impartial.

But, my Lords, from this special verdict I find an occasion is taken to find fault with the severity of the sentence. I should be glad to know from those noble lords, who have found fault with this sentence, what they think the judges might have done? for, in my opinion, they could do nothing but what they have done. I have told your lordships, we have no such thing as manslaughter in Scotland; the jury, by their verdict, had found the prisoner guilty of killing and wounding a great many of his Majesty's subjects, but that he had been provoked by the throwing of stones, by which some of his men were wounded. What could the judges do in this case? They must either determine, that the killing was murder, or they must have said it was *se defendendo*, or by chance: no law in the world could have justified them in determining, that the prisoner had killed these people by chance, or *se defendendo*; therefore they were obliged to determine it was murder, and to pass sentence accordingly. They might perhaps have recommended him to the crown as a proper object of mercy; but I do not find they did, and I must beg leave to say, I do not think they had any reason to do so; for though I would go as far as any man, in justifying an officer for executing his orders, and performing his duty with courage and resolution: yet, in our own dominions, and among our own subjects, except in cases of an open rebellion, I think a great tenderness ought to be shewn towards the people: I am sure a man of real courage always will; and though the unfortunate man, whose trial is under our consideration, is now dead, yet I cannot help saying, that upon the occasion for which he was afterwards condemned to die, he behaved more like a madman than like a prudent and brave officer.

I shall not pretend, my Lords, to justify every part of the law of Scotland, or every method they have of proceeding in their courts of justice. There is not, there never was, I believe, a body of laws in the world, against which a great many objections may not be made. In every country, the inhabitants are apt to extol the justice and perfection of their own laws; and those who are of a different country are sometimes apt to mistake the greatest beauties for great imperfections. I do not pretend to understand the law of this country, it is none of my business; but I think I could point out several imperfections; I shall only mention one, which I really take to be not only an imperfection, but an absurdity. By the law of this kingdom, if a rich man is convicted of felony, the sheriff is to be a great gainer by his conviction; he may perhaps acquire an opulent fortune by such conviction, and yet that very sheriff is the man who is to name the jury who are to try him, and may name such persons as he thinks fit. According to this method, a rich man must take great care never to be indicted for felony, or at least never to let it come to a trial, however false and malicious the prosecution may appear to be; for if he should allow it to come to a trial, I think he stands more than an equal chance of having a verdict against him; because as soon as that verdict is returned, the sheriff becomes his heir, or at least his executor, and may immediately take possession of his personal estate. I could mention many other imperfections, and perhaps errors, in the law of England; and I do not doubt but there are as many in the law of Scotland; but neither the one nor the other ought to be altered in any material point, without very mature consideration; otherwise we may happen to create two new imperfections for every one of the old we attempt to remove. The laws of Scotland, upon which the unfortunate man, whose case is now

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under our consideration, was condemned, may be wrong; the methods of proceeding, by which he was tried, may be severe: but such as they are, they were then, and are still, the laws of that country, according to which the judges were bound by their oath to proceed and determine; therefore if your lordships come to any resolution relating to that trial, your resolution ought in my opinion, to be, That it was regular and just; and such a resolution will, I am sure, contribute more to the peace and tranquillity of the kingdom, and to the safety of his Majesty's subjects, than any censure you can put upon it.

As this motion was not much insisted on, there was not any thing said by way of Reply, nor any division upon it. The chief Speakers for the motion, were lord Carteret, lord Bathurst, the earl of Winchelsea, and the lord Lovel. The Lord Chancellor and the bishop of Salisbury spoke against the Trial, but thought they had not sufficient lights to pass any censure upon it; and the chief Speakers against the motion, and in favour of the Trial, were the lord Hervey, the earl of Finlater, the earl of Isla, the duke of Argyle, and the earl of Scarborough.

May 2. The three Judges before-mentioned, being arrived from Scotland, according to order, there arose a question in the House of Peers, whether they ought to be examined at the bar, at the table, or upon the wool-sacks; which question was debated for some time on Friday, April 29; but the earl of Isla having proposed, that the House should resolve itself into a committee, to search precedents in relation to that question, the same was agreed to, and it was resolved, that the House would this day resolve itself into the said Committee; and accordingly, the House being resolved into the said committee, the question was again fully debated. The arguments for examining them at the table, or upon the wool-sacks, were to the following effect;

My Lords; As I was not one of those lords who desired the attendance of any judge or judges from Scotland, I cannot certainly tell what was the true meaning of their being ordered to attend; but as no enquiry has been made into any part of their conduct, as no resolution of the Committee seemed to be directed against any of them, I cannot think they were called up, or meant to be called up, as persons guilty of any crime or misdemeanor; and as they had nothing to do with any thing that happened when Porteous committed that crime for which he was condemned to die, nor with any thing that happened at the time that unfortunate man was murdered, I cannot think they were called up as witnesses in any part of that affair: therefore I must suppose the only reason for desiring their attendance proceeded from the authentic copy of Porteous's trial now upon your table. I suppose, from that trial, some doubts and difficulties had occurred to your lordships with regard to the laws of Scotland, and the judicial proceedings of the supreme court of justiciary in that country; and that therefore you desired the attendance of those three judges, in order to resolve those doubts, and remove those difficulties.

If this be the case, my Lords, I must think you can ask those judges no questions, nor can they answer any questions, till they are brought into the House in a regular manner, and placed according to their rank upon the wool-sacks. I am indeed surprized, that no regulation for this purpose was made by the articles of the Union, and I am as much surprized to find we have continued for so many years without making such a regulation; for as the laws of Scotland are very different from those of England, there is as great a necessity for this House's being always provided with the attendance of some, at least, of the Scotch judges, as there is for our having some of the English judges always among us. In this House, laws are to be passed relating to Scotland as well as England; in this House, appeals in all causes from Scotland as well as England, are to be ultimately and finally determined; in this House, a peer of Scotland may come to be tried for a crime committed in Scotland, and for which he is to be tried according to the laws of Scotland; nay, in this House we may have occasion to pass laws for regulating the courts of justice in Scotland; and how we can justly and conscientiously answer either of these purposes, without having some of the Scotch judges among us, is what I can no way comprehend. It is true, we have at present, we have had ever since the Union, some of the sixteen representatives of the peerage of Scotland, who are, or have been, great masters of the laws of their own country, as well as of the laws of many other countries; but this is a good fortune we are far from being sure of. We may have sixteen Peers sent

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up from Scotland, not one of whom may know more of the laws of Scotland, than most of us can pretend to know of the laws of England; and in that case, I should be glad to know, how it would be possible for us to proceed upon or determine any affair which required a thorough knowledge, or at least a full information, as to the laws of that country?

From this consideration, my Lords, I really think it inconsistent with the dignity of this House, and with the honour and character of our proceedings, not to have the attendance of some of the Scotch judges, in order to give us proper lights, and such as may be depended on, into the laws and customs of that country; for surely, no man can form a good opinion of the proceedings of any assembly, where the members determine without either knowledge or information; and for this reason, I am surprized this affair was not particularly thought of, and expressly regulated, at the time the Union was concluded. If it had been thought of at that time, I believe there is no doubt to be made, but that the judges from Scotland, appointed or ordered to attend this House, would have had places assigned them on the woolsacks, next to the judges of the same rank in England; and though this affair was at that time neglected to be expressly and particularly regulated, yet it is an affair, which I think, the people of Scotland may insist on from the general terms of the Union; and it is an affair, which, in my opinion, your lordships cannot well refuse. By the articles of Union it is expressly stipulated, that there shall be but one parliament for this united kingdom, and that the subjects shall have a communication of all advantages, except where otherwise agreed in the articles of Union. Is it not a great advantage to the people of England, to have their learned judges always present in this House, in order to give us that information, which is necessary in all cases where a doubt arises about the established laws and customs of England? If this be an advantage, as it certainly is, the people of Scotland have a good title to claim the same advantage, and to insist upon having some of their judges likewise present in parliament for the same necessary purpose. This is an advantage, I say, they have a good title, from these general words, to claim; because it is no way excepted by any article of the Union; and, as every honour is an advantage, they have a right to claim, that the same honours, the same respect, may be shewn by this House to the judges of Scotland, as are shewn to the judges of England, except that only of allowing a preference to the latter, with respect to their respective ranks or degrees.

As this House has, ever since the Union, had the good fortune to be supplied, from time to time, with noble lords, eminent for their knowledge and experience in the laws of their country, who happened to be of the sixteen chosen to represent the peerage of Scotland, it has prevented our taking notice of this defect in the Union; and it has prevented the people of Scotland's laying claim to that advantage, which they certainly, in my opinion, have a title to claim; it has even prevented their being sensible of any want in this respect. This, my Lords, contributes greatly to the honour of some lords we have had among us from that country, and likewise to the honour of some we have still the happiness to have among us; for I must do so much justice to some of the noble lords of that country we have now among us, as to say, that I believe we stand now as little in need of information from the learned judges of Scotland, as ever we did in any former parliament; but this advantage must of course cease in a generation or two; for, as no new title of honour can be granted in Scotland, we can expect few or no lawyers from that country in the very next age. I believe your lordships are all sensible, we should be often at a great loss, even with respect to the laws of England, if we had no learned judges to have recourse to, nor any peers who had been raised to the honour of peerage, on account of their profound skill and experience in the laws of their country; and from thence your lordships must see how necessary it will probably be for this House, in future times, to have always some of the learned judges in Scotland attending. This is the first time any of them have ever been called to attend, it is the first time it has ever been thought necessary to ask them any questions; and if your lordships oblige them now to attend, if you think proper to ask them any questions, I hope you will shew them the same honours, the same respect, you would do to the judges of any of the courts of Westminster-hall, if they should be ordered to attend for the like purpose.

To put this matter in a clear light, give me leave, my Lords, to suppose a Writ of Error brought into this House from any of

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the courts in Westminster-hall, from the court of King's-bench, for example; suppose upon reading the case, various doubts and scruples should occur to some of your lordships, with regard to the laws relating to that particular case, and with regard to the proceedings below, for the clearing up of which, you should desire to ask the judges some questions, and for that purpose should order them to attend at the hearing; surely, you would not call them to the bar, you would desire them to attend only in their places upon the wool-sacks. Again, suppose this very affair of Porteous had happened at Newcastle instead of Edinburgh; suppose he had been tried and condemned by the judges upon the assizes there; and, suppose, you should order the judges, by whom he was condemned, to attend, in order to answer some questions, and to explain some doubts, relating to his trial and condemnation, would your lordships order them to attend at the bar? No, my Lords, you could not; you, at least, would not desire their attendance any where, but in their usual places upon the wool-sacks. Therefore, from a parity of reason, if your lordships desire the judges of the supreme court of justiciary in Scotland, which is the same with the court of King's bench in England; I say, if you desire those judges to attend, if you desire to ask them any questions about the laws and customs of Scotland, you ought first, in my opinion, to take the proper method for giving them the places due to them upon the wool-sacks in order that they may from thence answer such questions, as you have a mind to put to them; for, if they should answer questions from any other place, I am afraid, the greatest part of their countrymen will be apt to say, they have done what I shall not chuse to express.

But now, my Lords, suppose the judges you have called up, are not to have any questions put to them as judges, but that they are to be examined as witnesses, in order to see if they can give you any light into the affair now depending before you; yet, as judges of one of the supreme courts of Scotland, and, consequently, as having a right to be within the House, they ought to be examined at your table, which is the place, I believe, where the judges of England would be examined, if they were to give evidence in any affair before you; for it appears upon your journals, that in the year 1689, two gentlemen had the honour of being examined at your table, though they were not then judges, but only because they had been judges, and, as such, had had places within the House. For this reason, the gentlemen who are attending by your order, if they are to be examined as witnesses, ought, I think, to be examined at the table; it is what, in my opinion, they have a right to insist on by the articles of the Union between the two nations, which I hope your lordships will never break through, in the most trifling circumstance, without the unanimous consent of both.

I hope, my Lords, no encroachment will ever be made in this House upon the right of any private man; I hope the meanest subject will always be able to sue with success in this House, for any right or privilege he can shew a just claim to; but the right now in dispute before your lordships, is not the right of a private man, nor is it a right of a private nature; it is the right of a whole people, it is the right of a nation once free and independent, and, it is a right stipulated by one of the most public and most solemn contracts that was ever made; a contract which on our parts, we are obliged to observe and fulfil with the greatest nicety, because the people of Scotland trusted entirely to our honour for a faithful performance; a submitting to be governed by one and the same parliament, in which they knew we would always have a great majority, was really in effect submitting every thing to our honour; and I hope, they shall never have the least occasion to repent of the confidence they have reposed in us. For this reason, in all cases, where the rights or the privileges of the people of Scotland, by virtue of the articles of Union, come to be questioned, I shall always have a strong biass in their favour, especially when the matter in question relates to a piece of mere ceremony. But in the present case, I must think, there can be properly no question; for, whether the judges of Scotland ought to be in this House as assistants, to give their opinions upon such matters of law, as may arise in the course of our proceedings, in the same manner as the judges of England do, is a question, I think, determined not only by the articles of Union, but by the very nature of the thing itself; because, while Scotland continues to be governed by laws different from England, it will be impossible for us to do our duty without such assistance.

My Lords, as nothing contributed more than the Union between the two kingdoms,

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towards securing the Protestant succession in the present illustrious family, so there is nothing can contribute more to the preservation of that succession, than the rendering that Union every day more firm and unalterable; which can no way be done more effectually, than by cementing the people by an union in hearts and affections, as well as an union established by law. While we have such a majority in both Houses of Parliament, the people of Scotland will always find it impossible to break through or dissolve the legal Union that subsists between us; but, if we should ever make use of that majority, which I hope we never shall, to break through or encroach upon those articles which have been stipulated between us, the legal Union will be of little force, it will only serve to make them desperate, and to run the risque even of their own perdition, in order to rid themselves of the yoke they groan under. They will be apt to ascribe to the present royal family all the ills they feel, or imagine they feel; and if they should unanimously join in a contrary interest, we know they would be supported by a numerous party in this part of the island, as well as by a powerful party beyond seas; for which reason we ought to take all possible care, not to give them any just ground of complaint; we ought even to avoid a measure which may be made use of by the enemies of the government, for sowing discontent and disaffection in that part of the island. The minds of the people in that country, are at present in great agitation; the bringing up of so many gentlemen, on account of a murder committed by the very dregs of the people, must give them a good deal of concern; and, we may suppose that every man's attention is fixed upon the behaviour of this House towards their judges: If we treat them with any seeming disrespect; if we treat them in any manner different from that, in which the judges of England would be treated upon a like occasion, I am afraid the people in general will look on it as an indignity offered to the whole nation, and as a violation of the articles of Union; therefore I hope your lordships will not examine them at all, or examine them in a manner to which no exception can be taken.

As I am not of that country, I have spoke with the more freedom in this debate, because I think I cannot be suspected of prejudice or partiality. If I have any, I confess it is upon that side, on which I think my own honour and the honour of my country most deeply concerned, which I take to be in a most exact observance, not only of the words, but of the spirit and intention of the articles of Union. We contracted together as nations quite independent of one another, and by the whole tenor of the contract it appears, that the subjects of both kingdoms are entitled to equal honours, privileges, and advantages. We have no pretence to any pre-eminence, but only that those of any rank in England shall have the precedence of those of the same rank in Scotland. This they have always since the Union allowed us, and I hope we shall never dispute conferring upon any gentleman of rank in Scotland, those marks of honour or respect, which are bestowed upon gentlemen of the same rank in England. I shall not pretend to prescribe to your lordships what method you are to take for conferring those marks of honour or respect; as the judges of England sit here by virtue of the King's writ, I should think the most regular way would be, to address his Majesty to order such writs to be issued, as may be thought proper, for enabling the three Scotch judges now attending by your lordships order, to come and take their places upon the wool-sacks; but I shall make no motion for this purpose, till I hear the sentiments of other lords upon the same subject.

The Answer was in substance as follows:

My Lords; I am sure, I am as ignorant as the noble Lord who spoke last, how the three Scotch Judges came to be sent for, or what were the reasons for sending for them. Whether their attendance was desired, in order that they might be examined as witnesses in the affair now depending before us, or in order that they might answer questions, and give their opinions as judges learned in the laws of Scotland, is what I know nothing of; for I was no way privy to the design of making such a motion, nor did I know any thing of it till I heard it made; and I gave my consent to it, only because I supposed the noble duke who made it, had good reasons for sending for them, which would appear at the proper time from the questions he should ask, and the cases he should put to them. I very well remember, that a few days before the motion was made for ordering these three judges to attend, a motion was made by a noble lord near me, for ordering one of these judges, I mean the Lord Justice

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Clerk, to attend, which motion was upon a division disagreed to; but, if I did not mistake the noble lord who made that motion, he did not mean to send for that gentleman as a judge, but as an officer of state, and as one very much entrusted, by virtue of his office, with the civil government of that country; he did not mean to send for that gentleman to answer any questions about the laws of Scotland, but to answer for his own conduct about the time Porteous was murdered; and as I thought the conduct of that gentleman was not such as it ought to have been upon that occasion, I joined with the noble lord in his motion; but I then had, as I generally have, the misfortune to be of the wrong side of the question.

Notwithstanding the ill fate of this motion at first, yet, my Lords, it might probably have been renewed in the course of our enquiry; but in a few days after, a noble duke stood up and moved that this very Lord Justice Clerk, together with the two senior judges of the same court, might be ordered to attend; which was accordingly agreed to, and this made the renewal of the first motion unnecessary. This different method of sending for him, appeared to me at first as a matter of no great moment; but now I must say, I wish the first motion had been agreed to, because in that case, I believe we should have had no such second motion; I believe none other of the Scotch Judges would have been sent for; and if none other of them had been sent for, we should at this time at least have had no such question as the present before us; for though I am in my own opinion very clear in the question now before us, yet I wish with all my heart no such question had upon this occasion occurred.

Whether the judges of Scotland, my lords, have a right by the Articles of Union to insist upon having the King's writ for being present in this House, and for having places among the other judges upon the wool-sacks; or whether it be necessary for us to have their attendance, are questions which, I think, are not properly now before us; and therefore I shall not take up your lordships' time with enquiring into them; but I am sure no judge of Scotland was ever yet admitted to be present, nor have any of them now a right to come within this House; for no man can come within our bar but by patent, by writ, or by custom. The judges of England have their places upon the wool-sacks by the King's Writ, and till the judges of Scotland get writs of the same nature, they have no right to come within our bar, nor have we I think, a power to bring them within the bar, because it would, in my opinion, be an encroachment upon the King's Prerogative. Nay, I must go farther, I do not think the King himself, even with the consent of this House, can issue out any such writ; for even the King's power of issuing such writs is limited by custom. His Majesty may by custom, and by his prerogative, create as many dukes, marquisses, earls, viscounts, or barons as he pleases; but I do not think he can grant, or rather create, a new title of honour in Great Britain without an act of parliament. So he may by writ call the judges of England to be assistants to this House: he might likewise, according to the ancient custom, issue writs for his serjeants at law, his counsel learned in the law, and some other officers, to attend as assistants; but I do not think that he can issue writs for the attendance of any judges, serjeants, counsellors, or officers, not warranted by ancient custom: for the issuing of any writ, not warranted by custom, there must be an act of parliament; because it is a matter which concerns the whole nation, it concerns the other House as well as this; and any such attempt would certainly meet with opposition from the other House. Therefore, as the issuing of any writ for summoning the judges of Scotland to attend in parliament, was not particularly and expressly established by the Articles of Union, it cannot now be done but by an act agreed to by all the branches of our legislature; and as it cannot be done without such an act, it would be very improper for us to present to his Majesty any such Address as has been proposed.

If the judges of Scotland had ever had any such writs as the judges of England have, for summoning them to parliament, if they had ever had the honour of having a seat within the bar, they would then have had a right to claim giving their opinions upon the wool-sacks, or to be examined at the table; but, my Lords, as they have never yet had any such honour, they have certainly no right to claim any such privilege; for it is upon the honour of having a seat in the House, and upon that only, the privilege of being examined at the table depends. To the highest officer in the kingdom, if he has no seat in the House, we cannot grant that privilege, without sacrificing the honour and dignity of the House, and, in my opinion, encroach-

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ing upon the prerogative of the crown; and if we should once begin to make any such sacrifices, or any such encroachment, God only knows how far we may be induced or obliged to go. If we once break through the ancient rule, if we once begin to grant the privilege of being examined at the table, to any one officer who has not the honour of having a seat in the House, many other officers will claim the same privilege; and I make no doubt, but the other House would immediately set up such a claim with respect to every one of its own members. The Judges of Scotland now attending, we may compel to appear before us in such manner as we think proper; but let us consider, my Lords, we cannot compel the members of the other House to come to be examined at all before us; and therefore, if we give that House a pretence for setting up and insisting upon any new privilege, we must comply with it, or we shall be deprived of every evidence any member of that House may hereafter be able to give, with respect to any affair depending before us; for, as no member of the other House is obliged to come to be examined before us, as he cannot come without the leave of the House to which he belongs, we may depend on it, that House will never grant leave to any of their members to be examined at our bar, after we have once furnished them with a pretence for being examined at the table.

As that, my Lords, of having a seat in the House, is the only title, upon which any person can claim being examined at the table, so this is a rule which we have hitherto most strictly and most uniformly observed; in so much, that the highest officers in the kingdom have been examined at our bar, without any regard to the office they bore, and without shewing them the least respect on that account. It appears upon our Journals, that the commissioners of the great seal were examined at our bar, and without any more ceremony or respect, than would have been shewn to the most private gentleman in the kingdom. It likewise appears upon our Journals, that an honourable gentleman was examined at our bar, who was, at that very time, first commissioner to the treasury, chancellor of the exchequer, and not only a privy counsellor, but I believe, a cabinet counsellor to the King then upon the throne; and though that gentleman still possesses the same employments, though he enjoys as many honours, and is as much respected by this House, as any gentleman ever was in England, yet, if he were again to be examined as a witness in any affair before us, I hope he would, I think he ought to be examined in the same manner.

This shews that no post a man possesses, no honour he can have, except that of having had a seat in this House, can entitle him to the privilege of being examined at the table; and the example of the two gentlemen mentioned, who were admitted to read some records at our table, instead of reading them at the bar, in the convention of estates in 1688, is no exception to this rule; for those two gentlemen, my Lords, had both been judges, they had both had seats in the House, and the Convention were certainly of opinion, they had been illegally turned out, therefore they still looked on them as having a right to a seat in the House; and having called, or rather desired the favour of them to come and assist the House in reading some old records, they could do no less than allow them that privilege, which they were in equity, though not in law, entitled to. But suppose those two gentlemen had had no pretence to have been admitted within the House, that Convention was no parliament, nor was that assembly of lords properly a House of Lords. They were not considered as such by the nation, because their acts or orders were confirmed by an express law passed in the next ensuing parliament, for which there would have been no occasion if the parliament or nation had looked upon that Convention as a legal and regular parliament; therefore nothing that was done in that Convention can be a precedent for us, and much less can it be a foundation for our breaking through a rule that has been established, and constantly observed ever since we had any records of parliament.

I have as great a regard, my Lords, as any man can have for the Articles of Union; I have as great a regard for the people of Scotland, and would be as loth as any man to give them a just cause of complaint; but, I have an equal regard for the honour and dignity of this House; and, I am sure, my shewing a due regard to the House of Peers, of which I have the honour to be a member, can never give offence to any man of common understanding in Scotland; therefore I am certain, our shewing a strict regard to our privileges on this occasion, can never disoblige any great number of persons in that country, where good

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sense abounds as much among the people, as it does, I believe, in any country in the world. Nay, I am convinced, a sacrifice of the honour and dignity of this House, on any account whatsoever, would generally disoblige the people of that country as well as the people of this; for, we are now entrusted with the honour and privileges of the peerage of both nations; and, to prostitute the dignity of this House in any respect, or for any consideration, would be a prostitution of the honour and privileges of the peerage of Scotland as well as England.

What benefit or advantage might accrue to the people of Scotland, from having their judges present in this House, what right the people may have from the intention and spirit of the Articles of Union, to claim that benefit, and what necessity or occasion this House may hereafter have for the attendance of some of those judges, are questions which I am sure we have not time to enquire into in this session; and much less can we enquire into, or regulate this affair, before it will be necessary for us to examine the Scotch judges, who are now attending by our order. I should with all my heart agree to our enquiring into that affair, if I thought it possible for us to go through with it before the end of the session; I should readily join in granting the people of Scotland all the right they could claim, nay, all the favour they could expect upon the issue of such an enquiry; but, I believe it will be granted, that every one of these questions is a little doubtful, and of great moment; therefore it will be necessary to enquire into them with great calmness and exactness, and not to resolve either of them till after the most mature deliberation. It would be necessary to enquire into the ancient customs and usages of the parliaments of Scotland, in order to see whether the judges of Scotland had any seats, as such, in their parliaments; several other matters would be necessary to be enquired into; and we shall certainly meet with a good deal of difficulty in allotting them their proper places upon the wool-sacks, in determining what number of them should always attend, and in regulating how they should take their turns in attending; for I hope you would not have them all to attend, so as to make every session of parliament an absolute cessation of all manner of justice in Scotland. Many other difficult questions would certainly occur in the course of that affair; and it would be necessary to manage every one of them with great tenderness, in order to prevent any possible breach between the two Houses of Parliament, as well as to prevent raising any fresh animosity between the two nations. From all which I must conclude it impossible for us to pass any bill in this session, for bringing any judges from Scotland into this House; and as there is no method of doing it, but by an act of parliament, therefore it cannot be proper for us to enter upon any such affair at present.

Thus your lordships must, I think, all see, that it is impossible for us to grant those honours, or to shew that respect to the three Scotch judges now attending, which some lords seem to desire, and which I should willingly agree to, if we could possibly do it without sacrificing the honour and dignity of this House, and exposing both ourselves and our posterity to numberless inconveniencies. I am sorry any question of this nature should have happened: I am now more sorry, my Lords, than I was at first, that the motion for bringing up the Lord Justice Clerk was not agreed to; because I believe it would have prevented any such question as the present; but now the question has occurred, I hope your lordships will shew a due regard to the honour and dignity of your own House, by resolving to examine these judges at the bar, in the same manner as you have examined the greatest officers in England, who happened not to have the honour of having a seat among us. As such a resolution can offend no man of common sense, it can raise no general discontent in Scotland, nor occasion any disaffection to the illustrious family we have now the happiness to have upon the throne. If any unthinking people in Scotland should be misled by the enemies to our happy establishment, it will be easy for the noble lords of that country we have now among us to undeceive them, and to convince them, that no indignity or affront was intended by any such resolution. The abilities of all these noble lords are apparent, I am sure their inclination will not be wanting, and I do not question but their interest and authority among the people of their country are equal to their abilities.

Therefore, my Lords, as no danger is to be apprehended from our examining the judges now attending, in the usual manner in which all persons, who have not a seat in this House, are examined; and as great

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danger is to be apprehended, and many inconveniences must necessarily ensue from examining them in any different manner, I shall conclude with this motion, That the Lord Justice Clerk, and the two senior judges of the court of justiciary in Scotland, now attending according to order, be examined at the bar of this House.

The Reply was in substance as follows:

My Lords, I am sorry, not on account of the present question's having now happened, nor on account of its having happened on this occasion, but on account of its being made a question at all. I am sorry the right the Scotch nation has to have their judges in this House, should ever have been brought into dispute; for I am sure such a contest can no way contribute to the welfare of the united kingdom, or to the establishment of that harmony which ought to be kept up between the people of those two kingdoms, which were long separate and independent, but are now, for the benefit of both, happily united into one. Unreasonable feuds and animosities are but too apt to arise between any two people, who have been long accustomed to live under distinct governments, and are but just united under one and the same. The flames of dissension may cease or disappear, but it is a long time before the fire can be entirely extinguished; and therefore, those who have the honour of being entrusted with the government of any such two people, ought to be extremely cautious of engaging in any measure or of bringing any question upon the carpet which may blow up those coals that have been but lately covered with the ashes of wisdom and good policy, and cannot therefore be supposed to be absolutely extinguished. If the bringing up of all, or any of the judges of Scotland, as assistants to this House, could possibly be of any prejudice to the people of England; or if it could be looked on as any way dishonourable to, or beneath the dignity of this House, I should not at all have been surprized to have heard it contested; but when it can be no way prejudicial to the people of England, nor any way dishonourable to this House; when it may so greatly contribute to the advantage of the people of Scotland; and when it appears in itself so necessary, for enabling us to determine many questions that may come before us; I confess I am not only surprized, but I am sorry to find it so much as contested.

I remember, my Lords, the first motion in this House, relating to any of the Scotch judges, was for bringing up the Lord Justice Clerk only. I was against that motion, for the very reason, it seems, which made other lords for it. I was against it, because it seemed to be a motion for bringing him up as a criminal, and not as a judge; and I was against his being brought up as a criminal, because there was nothing then appeared before us, which could give the least foundation for such an accusation. I agreed with the motion for bringing him and the two senior judges of the same court up, because I knew your lordships had a power of requiring the attendance of any of the judges of Scotland, as well as you may require the attendance of any of the judges of England; and I have always observed, that no such order has ever been refused, when any lord of this House pleased to ask for it. These, my Lords, were my reasons, and I still think they were good reasons for agreeing to the second motion, and for disagreeing to the first. But suppose the first had been agreed to by the House, it could not have prevented the second, because any lord of this House had a power to desire, that any of the judges of Scotland might be ordered to attend, in order to explain some doubts that had occurred to him relating to the law of Scotland; and surely no lord, who wanted to have such doubts explained, would have trusted the explanation of them to a judge, who had been brought up as a criminal. Again, suppose the Lord Justice Clerk had been brought up by himself alone, suppose he had been brought up, not as a judge but as a criminal, the same question would have occurred; because, as he is a Scotch Judge, and one of the chief of them too, he must have been considered as such, till some resolution, at least of this House, had passed against him: therefore in his first examination he might have insisted, he ought to have insisted, on his being examined at your table; for I am sure your lordships would not have made a new precedent for condemning a man without hearing him. Our having agreed to the first motion relating to any of the Scotch judges, could not therefore have prevented the present question; there was no way of preventing it, but by a previous, and what I must call a prudent care, to give the judges of Scotland what I think of right belongs to them, I mean their places upon the wool-sacks, before you resolved to desire their attendance, either as judges, as witnesses, or as criminals. Their con-

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duct as judges has been already approved, or at least not condemned by your lordships; and if any of your lordships are of opinion the Lord Justice Clerk has misbehaved in any other part of his duty, you have him now attending; you may revive the committee, and may proceed to enquire into his conduct; but, before you begin to proceed against him as an officer of state, I hope you will grant him what I think of right belongs to him as a judge of Scotland.

The right, my Lords, which the judges of Scotland have, by the articles of Union, to insist upon having the king's writ for being present in this House, and for having places among the other judges upon the wool-sacks, or rather the right which the people of Scotland may claim, of having some of their judges always attending as assistants to this House, is the first and chief question now before us; because, without first determining this, you cannot determine the other, as to the place in which they are to be examined; nay, the determination of the second, determine it which way you will, must be a full and a final determination of the first. If the judges or people of Scotland have any such right by the articles of Union, they have had it ever since those articles were agreed to; and if they have had such a right ever since that time, the judges now attending have had an undoubted right to seats in this House for many years, though they never hitherto had occasion to take possession of them. It has never been established as a rule, not to admit any person to be examined within the bar, but such as were actually in possession of a seat in the House. On the contrary, any sort of right to a seat in the House, has always been looked on as a right that entitles a man to be examined within the bar.

The famous case of the lord Forrester, who was a lord of Scotland, but not one of the sixteen, is a full proof of this rule; and the case of the two gentlemen, who were called to read some records to this House in the year 1688, and who were for that purpose admitted to your table, is a proof, that an equitable right to a seat in the House is as good as a legal. Those two gentlemen had, it is true, been judges, and the convention, as well as most of the nation probably, and I think rightly, were of opinion, they had been unjustly turned out from being judges; but suppose they were unjustly turned out, it is certain they had then no legal title to a seat, nor were they in possession of any seat in the House; the only reason for admitting them to the table, was on account of the equitable title they had to seats upon the wool-sacks. That convention indeed was not at first a parliament, but I am sure none of your lordships will question their power, nor will this House, I hope, ever refuse to admit any proceeding of theirs as a good precedent in any case of the same nature. It was not for any deficiency of power that their acts and proceedings were confirmed by the next parliament; that act of confirmation was passed only to satisfy the unreasonable scruples of some men, and upon this maxim, that abundance of law never breaks the law; for surely no man imagines that any of the acts or resolutions of the first parliament after the revolution, received any new or additional force from this act of confirmation, which was passed in the second. And I must observe, that the precedent now under our consideration, was not a precedent made by the convention, while it continued a convention, but after it was declared to be a parliament; so that it is a precedent which deserves as much regard as any precedent since that time.

Now, my Lords, as your resolving to examine the Scotch judges at your table, if you do come to any such resolution, will be founded upon the right they have to seats within your House, therefore their being examined in such a manner, can never afford a pretence for any man in the kingdom to be examined at your table, if he has no manner of right to a seat within your House. Consequently there is no ground for saying, that your coming to any such resolution, or your examining them in any such manner, can subject you or your posterity to any one inconvenience. As for the commissioners of the great seal, the first commissioner of the treasury, the chancellor of the exchequer, or any privy or cabinet counsellor, I am surprized to hear it said, that your lordships having examined all or either of them at your bar, can be an argument for examining the judges of Scotland in the same manner. Is there any one of these officers, that, as such, has the least pretence to a seat in this House? Therefore, according to the rule that has been established, and which seems to be agreed on by every one of your lordships, they had no pretence to be examined within the bar; but from tha very rule, the judges of Scotland have

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pretence to be examined within the bar, because they claim, from the articles of Union, a right to sit in the House as assistants, in the same manner as the judges of England do; and if they have but an equitable right, it will certainly be not only a piece of injustice, but an indignity done to them, to examine them at your bar; for which reason their claim of right ought to be first determined, because upon that, and upon that only, the other question must necessarily depend.

That the Judges of Scotland ought to be summoned as assistants to this House, that the people of Scotland have a right to have some of their judges present in this House, appears, my Lords, not only from the two Articles that have been mentioned, by which it is provided, 'That the 'united kingdom shall be represented by 'one parliament; and that the subjects 'shall have a communication of all advan-'tages not excepted in the Articles;' but likewise from the 18th and 19th Articles of the Union, by which it is expressly provided, 'That all matters of private right 'shall be determined by the laws of Scot-'land, and before the proper courts there;' so that though there lies an appeal to this House, yet in all such appeals we are, by the articles of Union, obliged to determine according to those laws. If we have no lord nor assistant in the House, who can inform us what those laws are, and explain those passages which may appear a little dark and doubtful? From these articles, and indeed from the whole tenor of the treaty, this right appears so manifest, that I am surprized as much to hear any doubts made about it, as I am to hear so many difficulties started about the manner of making it effectual.

I shall agree, my Lords, that no man can come into this House but by his Majesty's writ of summons, and in issuing of such writs it may be true, that the power of the crown is limited by custom. But with respect to that which depends upon the Articles of Union, the power of the crown can neither be limited nor directed by the custom of England, or the custom of Scotland; it can be directed by nothing but the Articles themselves, and as those Articles made it necessary to have the judges of Scotland called to the assistance of this House, as well as the judges of England, surely the king got by those Articles a power to issue writs for calling them accordingly. Suppose then a writ of summons should be directed to every one of them, it could be attended with no inconvenience; it would not be necessary for them all to come up here, and to attend the whole time of the session; such as pleased only would come, unless your lordships should, upon any great occasion, such as the present, make an express order for the attendance of all or some of them: The issuing of such writs could not, therefore, occasion any surcease of justice in Scotland, or impede or interrupt the proceedings at law there, no more than the issuing of such writs to the judges of England interrupts or prevents the course of proceedings at the assizes, which are held in all parts of England as regularly when the parliament is sitting, as when it is not.

For my part, my Lords, I cannot think there is the least occasion for any new act of Parliament in this case. The act of Parliament, which ratifies and confirms the articles of Union, has certainly already given to his Majesty a full power to do that, without which some of those articles cannot possibly be complied with or fulfilled; and though his Majesty has not yet executed that power, though there has never been before now a necessity for his executing that power, yet he may certainly execute it whenever he thinks proper, or as soon as this House shall, by an address, desire him to do so. But, suppose a new act of Parliament were really necessary, that act of Parliament can depend upon none of the ancient customs of the Parliaments either of Scotland or England, nor can any part of it be founded upon any of those ancient customs or usages; the act to be passed can be founded upon nothing but the articles of Union, and the necessity there appears to be for having the judges of Scotland called as assistants to this House, in order that we may be enabled to do justice to the people of Scotland, according to their own laws, which is what we are bound to do, by the articles of Union. The method of holding Parliaments in Scotland was quite different from the method now established for holding the Parliaments of Great Britain: there, the Lords and Commons sat together in one House, and as the judges were capable of being chosen by any county, or city, or borough in that kingdom, most of them were generally members of Parliament, so that there was no necessity or occasion for calling them by writs as assistants. With respect therefore to any new act of Parliament to be passed on this

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occasion, we can take no direction from any custom or usage of the Parliaments of Scotland, and consequently can have no occasion to enquire into any of them. We can have regard to nothing but the articles of Union, and the rights and privileges, or obligations, which naturally and necessarily arise from them: this can require no tedious enquiry, nor can any difficulty arise in the drawing up or passing such an act, but what may be soon got over, if no partiality or animosity be allowed to enter into the affair, which I am sure we have not the least ground to fear in this House; and as the other House is very little concerned in the question, it is to be hoped they would agree to what we should think proper without any great difficulty. For this reason I must think, that if an act of Parliament be necessary for empowering his Majesty to summon the judges of Scotland as assistants to this House, such an act may be passed, the writs may be issued, and the judges may have taken their places upon the wool-sacks, not only before the session is at an end, but before it may become absolutely necessary for us to examine them; and then the examining of them can bring us into no dilemma, nor into the danger of committing what may be thought a breach of the articles of Union, or of agreeing to that which may be thought a sacrificing the honour and dignity of the peerage of Great Britain.

But, my Lords, if your lordships be of opinion, that all or some of the judges of Scotland ought to be called as assistants to this House, if you are of opinion, the people of Scotland have a right to insist upon their judges being called as assistants to this House, can the supposed difficulty you will meet with in enquiring into the affair, or getting an act of Parliament passed, be any reason for your not attempting it? Suppose you should not be able to bring such an affair to perfection in this session, yet your entering upon it, and making some progress, will certainly pave the way, and make it easy to pass a proper Bill the next session. Suppose this right which the judges of Scotland, in the name of themselves and the whole people of Scotland, now lay claim to, were a great deal more doubtful than I think it is, yet it must be allowed to be a matter of right; and will your lordships proceed to determine that right, or to determine any collateral question, by which the principal question will at least receive a dangerous blow, without hearing parties either by themselves, or their counsel upon the right they contend for? This is so contrary to your lordships' known justice and equity, and to your usual method of proceeding in cases of the like nature, that I cannot allow myself to imagine you will agree to it. If you think you have not time to enquire into this affair, or to hear parties upon the matter of right contended for, some expedient may be found for putting it off, or for avoiding any thing that may look like a decision of the affair. What questions the noble lords may have to put to the judges now attending, I do not know; what lights any lord can expect from them, I cannot comprehend; but if those questions are not very material, if the lights expected from them are not thought to be of great importance, I wish the noble lords would pass from the order made for their attendance, and give over all thoughts of putting any questions to them, or of calling them either to the bar or the table for that purpose; for though we have made an order for their attendance, though they are come up here in obedience to that order, yet we may pass from, or delay calling them till the session is expired; and I must observe, that if your lordships should order them to the bar, and it should then appear you had no matters of great importance to interrogate them about, the whole people of Scotland will conclude, you called them to the bar for no other purpose, but to put an indignity upon them.

I am glad to hear every noble lord, that has spoke in this debate, profess such a regard for the Articles of Union, and for the people of Scotland; I am convinced their lordships have all spoke sincerely upon this occasion: this I am convinced of, because I have the happiness to be personally acquainted with their lordships; but, my Lords, the people of Scotland, who hear nothing of what is said, but of what is done, will, I am afraid, conclude, that we have no regard for them, and as little for the Articles of Union, if they should hear we have determined a right pretended to be founded upon those very articles, without so much as hearing any of the parties concerned, in vindication of the right they claim. They look upon themselves as entitled to all the advantages, privileges, and honours, not expressly excepted in the Articles of Union, which the people of England are entitled to; and it will be impossible to persuade them, no injustice has been done them, nor any in-

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dignity put upon them, when they hear, that their judges were kept standing at your lordships' bar, while the judges of England were sitting within the House. This is a distinction, my Lords, which it is impossible to palliate or excuse: and if you design to keep up that harmony and unanimity which ought to be kept up between the two nations, so lately made one, I am sure you should avoid, as much as possible, all national distinctions. If the people of Scotland should think themselves injured, they cannot, it is true, vindicate themselves as a nation; they must put themselves upon a footing as rebels against a legal, established government, if they should attempt to oppose any thing resolved on by the parliament of Great Britain; but this is owing to the great confidence they put, at the time of the Union, in the honour and justice of the people of England; for they could not then suppose that the number of members they were to send to either House, could prevent that House's being guilty of any partiality or injustice towards them; and I hope your lordships will always be extremely cautious of giving the people of Scotland the least cause to repent of that confidence they then put in the honour and justice of their neighbours of England.

One of the chief causes, my Lords, which produced the Union was, we all know, the establishment of the Protestant Succession. The settlement of the crown upon the present illustrious family, had been established by act of parliament in England, long before the Union, but the Scotch parliament could never be induced to agree to it; on the contrary, they seemed to be taking measures to prevent its being forced upon them. This made every wise man in England as well as Scotland, more fond of an Union than otherwise they would have been, and made them more heartily and more cordially endeavour to bring it about. Accordingly, by the very second Article of the Union, the succession was settled upon the present illustrious family, and by virtue of that settlement we have now the happiness to see his present Majesty in possession of the crown of the united kingdoms of England and Scotland. It is therefore the business, it is the duty of every man who is a true friend to the illustrious family now upon the throne, to endeavour as much as he can, to render the Union agreeable to the people of Scotland; because, if they should ever begin to repent of having agreed to the Union, they will naturally begin at the same time to repent of having agreed to the succession; if they should ever begin to entertain a desire of being rid of the one, they will of course begin to entertain a desire of getting rid of the other; and if this should ever come to be the desire of the people of that part of the island in general, it may, in case of a war, be of the most dangerous consequence to the present royal family. For this reason I think your lordships should avoid every thing that may look like doing an injustice to the whole people of Scotland, or that may look like making an invidious distinction between that people and the people of England; and as I think the making of any difference between the judges of Scotland and the judges of England, or the showing of any less respect to the former than you usually do to the latter, will be looked on, by the whole people of Scotland, not only as an invidious distinction between the two nations, but as a real indignity put upon them, therefore, I hope it will be avoided, if possible; which may very easily be done, if your lordships have no matters of very great importance to interrogate these judges about.

But, suppose, my Lords, you have questions of the utmost importance to put to them; suppose you think it absolutely necessary to examine them in relation to the affair of Porteous; and suppose you think it absolutely impossible for you now to take time to enquire, whether they have any right, by the Articles of Union, to be called as assistants to this House, and as such to have places upon the wool-sacks, according to their ranks, next to the judges of England; yet as this claim of theirs is a matter of right, as it is a matter of right in which the people of Scotland have a very deep concern, I hope your lordships will not determine it without hearing parties very fully upon it; and therefore, if you now come to a resolution to examine them at your bar, I hope you will add a saving clause to that resolution, saving and reserving to the judges of Scotland all manner of right which they may have, or lay claim to by the Articles of Union, for being called by his Majesty's writ as assistants to this House, and for being placed as such upon the wool-sacks according to their ranks, next to the judges of England.

To conclude, my Lords, I wish this affair had been expressly and particularly regulated by the Articles of Union; I

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wish a proper clause had been added, expressly empowering his Majesty to call the Judges of Scotland as assistants to this House, and to place them upon the wool-sacks according to their ranks, next to the Judges of England: if it had been then thought of, I am convinced it would have been readily agreed to; considering the circumstances the two nations were then in, I am sure none of your lordships can think this piece of respect, which could not possibly be of any disadvantage to the people of England, and which was so necessary for the people of Scotland, would have prevented an Union so much for the advantage of both nations. But in treaties of such a nature, it is impossible to foresee, or to provide for all the questions that may afterwards occur; the spirit and intention of the Treaty must be considered, in order to form from thence a rule for the deciding any question that may afterwards arise, which does not appear to have been expressly provided for in the Treaty; and to me it appears evident that, by the spirit and whole tenor of the Treaty of Union, it was intended, that no distinctions should afterwards be made between the people of the two nations, or between any rank of men in one, and in the same rank of men in the other, but such as were expressly regulated in the Treaty; or that any advantages should be enjoyed by the people of the one country, but what should be enjoyed by the people of the other, unless otherwise stipulated in the Treaty; and as it is a very great advantage to the people of England, to have their Judges called as assistants to this House, your lordships must allow the people of Scotland are intitled to the same advantage by the Articles of Union; you must allow that no distinction ought to be made between the Judges of the supreme courts in Scotland, and the judges of the supreme courts in England; therefore, I think, you cannot agree to the resolution that has been proposed, I hope you will not agree to it, without the saving clause I have mentioned.

This was the Substance of the Debate upon this occasion; and the question being at last put upon the motion for resolving as before mentioned, to examine the Scotch Judges at the bar, it was, upon a division, carried in the Affirmative, by 48 to 37. Then the House being resumed, the lord Delawar, who was in the chair, reported the Resolution of the Committee which, after some little debate, was carried in the affirmative, upon a division as follows: viz. Contents present 47, Proxies 16—63. Not Contents present 36, Proxies 15—51. After which the three Scotch Judges were called to the bar, where they appeared in their robes, and some few questions were asked them.

The principal Speakers in the Debate for calling the Scotch Judges to the Bar, were the earls of Abingdon, Aylesford, Chesterfield, Strafford, and Winchelsea, the Lord Chancellor, lord Delawar, and lord Bathurst; the principal Speakers against it, were, the duke of Argyle, the earl of Isla, the duke of Newcastle, the lord Hervey, the duke of Athol, the earl of Craufurd, and the earl of Finlater.

The Lord Provost and the City of Edinburgh having been admitted to be heard by their Counsel against the Bill, that hearing began on May 4, and was continued every day till the 7th, and then the Bill was committed for the 9th; when it passed in the Committee; and on the 11th, was read a third time, and passed on a division, 54 Contents, to 22 Not Contents.

In the Debate on this affair, in the House of Lords, the following speeches were made:

The Duke of *Argyle* said:

My Lords, I shall be far from saying any thing that may seem to favour the actors of a crime, than which, from the circumstances of barbarity that attended it, and from the contempt of majesty it expressed, no age or country ever produced a blacker; neither shall I pretend to defend the abilities, as a magistrate, of the unfortunate person who is the subject of part of the Bill now depending; but it is my opinion, that if any thing can be justly charged upon him from the evidence that has been laid before this House, it is not treachery, but folly, and that he rather is an object of pity than censure. I must however, take notice of what has been said with respect to the lenity of this House, in the present proceedings against the Lord Provost and citizens of Edinburgh.—Really, for my own share, I cannot think of a proceeding more harsh or unprecedented than the present; as I believe there is no instance of the whole weight of parliamentary indignation (for such, my Lords, I call a proceeding by a Bill *ex post facto*) falling upon any single person, far less upon any community, for crimes that are within the reach of the inferior courts

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of justice to punish; for this reason, my Lords, I say, that if the Lord Provost and citizens of Edinburgh should suffer in the terms of the present Bill, the proceeding against them is so far from deserving the name of lenity, that they will suffer by a cruel, an unjust, and a fantastical proceeding. A proceeding my Lords, of which, very bad use may be made, if ever this nation should have the misfortune to fall under a partial, self-interested administration. That part of the present Bill which affects the citizens of Edinburgh, ought to be the principal concern of every nobleman in this House. For, though we may determine the properties of private persons, and may adjust the privileges of communities, we cannot infringe the rights of nations. To pass the present Bill, my Lords, in the shape it is now in, is what I will be bold to say, and I say it of my own knowledge and of my own experience (but with all the respect that is due to this august assembly) it is what even the whole legislative body cannot do. I was in the parliament of Scotland when that part of the Treaty of Union relating to the privileges of the royal burghs was settled, and, my Lords, these privileges were put upon the same footing with religion, that is, they were not alterable by any subsequent parliament of Great Britain. It is true, some moved, that they should be submitted to such alterations, as the parliament of Great Britain should in time coming, for good reasons, think fit to make. But, my Lords, after a full debate, it was carried, that they should not be subject to any such alterations. The nation of Scotland, in all the proceedings at that time, treated with England as an independent and free people; and as that Treaty, my Lords, had no other guarantee for the due performance of its articles, but the faith and honour of a British Parliament, it would be both unjust and ungenerous, should this House agree to any proceeding that has the least tendency to infringe it.

That many, nay most of the Articles of the Treaty of Union, are subject to be altered by a British parliament, I shall not deny. Nor shall I dispute, but that if the people, or if the majority of the people of Scotland should, for good reasons, petition for an alteration in this, or any other article, I say, I shall not dispute but that this House might, and ought to make the desired alteration: but I believe no lord in this House will say, this is the present case.

It has been much insisted on, that the gate in question must necessarily be demolished, in order to leave to the King's forces a free entry into the city of Edinburgh when any exigency requires them. No one, my lords, is more sensible than I am, how reasonable it is that the King's forces should have free access, to suppress every commotion of the like nature with that now under our consideration. But, I believe, I can propose a method, by which every lord in this House will be satisfied how that end may be answered more effectually, and without any of the bad consequences attending it, that probably will attend the demolishing the gate in question.

The castle of Edinburgh, my Lords, is the King's House, and no one can doubt his Majesty's power to send as many forces into it as he pleases; should we therefore petition his Majesty, that the barracks may be enlarged, and the number of troops in garrison increased, there is no room to question but that the ends proposed will be more effectually answered than they can be by any expedient laid down in the present Bill.

The Nether-bow Gate, my lords, stands in a very narrow street; near it are always a great number of coaches and carts. Let us suppose another insurrection is to happen; in that case, my Lords, should the conspirators have the presence of mind to barricade the street with these carriages, as may be done by a dozen of fellows, I affirm, and I appeal for the truth of what I advance to any man of my trade, who knows the situation of the place, if 500 men may not then keep out 10,000, for a longer time than that in which the mob executed their bloody designs upon Porteous. Besides, my lords, I think it has been made out by the gentlemen against the Bill, that the gate in question is absolutely necessary for collecting the city revenue, and for preventing smugglers. In that case, my Lords, I do not see how this gate can be taken away without damaging not only the revenue of the city, but that of the crown. Thus much, my Lords, I have thought fit to say, with respect to that part of the Bill that relates to the demolishing of the city-gate.

I shall now proceed to the other part, I mean that of taking away the guard; but perhaps it will be necessary to make some remarks on the right by which the city of Edinburgh enjoys this guard: it was confirmed to them by a parliament of Scot-

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land, under the immortal deliverer of our religion and liberties, king William; a parliament, my Lords, than which no body of men ever shewed greater zeal in acquiring, or greater resolution in defending, these invaluable blessings. And such was their sense of the services of the town of Edinburgh, that it is inserted in the preamble of the Bill, that the said guard was granted to the citizens of Edinburgh, on account of the zeal they discovered when religion and liberty were at stake. Will such a parliament, my Lords, and such a king, plead nothing in their behalf; and must one wrong step, allowing it to be such, forfeit the merit of a long tract of services? When I was honoured with the command of the forces in Scotland against the rebels, in the year 1715, and at the head of those numerous armies and squadrons, for so our Gazettes represented them to be, which amounted to about 1700 men, I had information that a body of the rebels had ventured to Leith, and that they designed to attack the city of Edinburgh. Though I had not a troop with me at that time, I saw this very guard, which you are to break by this Bill, draw out, and march down against the rebels in as good order, and with as good a shew of resolution as I ever beheld in any body of men. The effect was, that the rebels altered their design, and advanced no farther; thanks to them they did not, they having the odds of five fighting men to one. This was not all the service they did at that important juncture; the rebels had gained over a serjeant of the garrison in the castle of Edinburgh, who promised to assist them in surprizing the garrison; and had it not been that the ladders they made use of proved too short, they must have succeeded: which would at that time have given a great blow to the king's affairs in that country; and it was entirely owing to the vigilance of the city-guard, that the conspirators were discovered, and many of them seized.

But, my Lords, setting aside all these considerations, I think there are some of a private nature, that ought not a little to influence your lordships in the present affair. You have examined into the conduct and usefulness of the city-guard of Edinburgh: you have found, that on many occasions, it has been of great use; nay, in the present unhappy case, your lordships seem to approve of the conduct of the gentleman whose turn it was to command the night in which Porteous was murdered. Now my lords, I would gladly know why the other two Companies which composed that guard, and with whom no fault is pretended to be found, should be equal sufferers with those who were that night upon duty, whom the present Bill supposes to have been guilty; and why the captain commanding on that night, who appears not to have been guilty, should have his bread taken from him? Some of your lordships have been pleased to mention the great lenity with which this Bill is attended; but where the lenity is of taking a gentleman's bread from him, after having done his duty honestly, I cannot comprehend: at least if I may judge of another by myself, I was so far from taking it as a favour, that I looked on it as the greatest hardship I ever met with in the whole course of my life, when I was obliged to resign to another a commission in which I had honestly and faithfully served. Some regard, my lords, ought likewise to be had to the private men, who are to be deprived of their bread; and the present Bill makes no provision for them, though it appears by the evidence laid before your lordships that they were entirely innocent.—Nor is any care taken by it of having the city of Edinburgh provided with another watch; and, my Lords, I conceive there is no city, of an equal largeness with that of Edinburgh, that can be without a regular watch of some kind or other.

I must now observe, my Lords, that great zeal has appeared in this House to pass the present Bill into an Act, which is to affect a person, whose only crime seems to have been, that he was unfit for a trust that requires an active and a vigilant man; and against the citizens of Edinburgh, who are only guilty in not foreseeing what it was impossible for them to have foreseen; and yet, my lords, no Bill has been brought in to bring the persons who have been guilty of that barbarous murder to justice: these, my Lords, ought to be the immediate objects of the resentment of this House; for where such desperate enthusiasts are harboured, no state can be secure of its peace, and no private person of his property. Great insinuations, my Lords, have been made, that this and many other Tumults that have frequently happened of late in the united kingdom, have been owing to the oppression of the magistrate: for my part, my Lords, I have heard of no particular acts of oppression, and I believe I may venture to say, neither has any of your lordships, as we

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must all have done if any such had been. But, my Lords, can riots proceed from no other cause but from the oppression of the magistrate? Have people no other motives to rebellion but the suggestions of despair? I believe, my Lords, we may find, from the history of past times, that they have always had, and from the experience of the present, that they still continue to have other motives.

This riotous and rebellious spirit of theirs, does not proceed from any oppression in the governors or civil magistrates of that country, as has been strongly insinuated, but from a few fanatical preachers, lately started up in that country, who by their sermons and otherwise instil into the minds of the vulgar and ignorant, such enthusiastical notions as are inconsistent with all government, by making sedition and rebellion a principle of their religion. From this cause I am inclined to think, the Tumult at Edinburgh proceeded; and to this is owing that ill-judged fidelity of the guilty towards one another, by which the secret was, before the execution, made impenetrable, and by which the discovery of the persons concerned has since been rendered impossible. But of the inhabitants of Edinburgh, I am convinced, there are very few tainted with such principles, because they seldom or never hear any such doctrines.

I have now, my Lords, given my opinion with respect to the present Bill, so far as I have had opportunity to know any thing of its tendency, or the evidence upon which it is founded; and I think, that if we consent to the passing it into a law, at least in the shape it is now in, we shall do what is both imprudent and unjust.

The Lord Chancellor *Hardwicke** rose and said:

My Lords, as this House has agreed to the preamble of the Bill now before us, I believe it will be found very extraordinary, if any thing were inserted in the body of the Bill that should contradict the preamble. This we must do, if we agree to the motion made by the noble peer who spoke last; and thus we shall send down to the House of Commons a Bill of pains and penalties, where no pains and penalties are implied; or else a new bill must be brought in, a new preamble drawn up, and a new course of evidence gone through, which at this time of the session would be impracticable. Besides all this, if the expedient proposed by the noble peer was to be followed, if by suffering the city gate to remain as before the riot happened, the barracks of the castle were to be enlarged, so as to contain a greater number of soldiers in garrison there; we must come to a resolution of addressing his Majesty for that purpose; and by these means all that we have been doing in this affair, for near these four months, has been quite unnecessary, and must go for nothing. Every peer in this House must be sensible how ill this would sound at home, and how ridiculous it would appear abroad. I am far from disputing the good services the town of Edinburgh has formerly done; but the merit of ancestors in a former age, can never atone for the degeneracy of their posterity in the present. As I very much respect the noble peer who spoke last, I shall be likewise far from doubting of the truth of what he has advanced, with regard to the tenderness which the last parliament of Scotland expressed for the rights of the royal burghs in that kingdom. I say, I shall be far from doubting it, because the noble lord advances it from his own knowledge. But these privileges must be always looked upon as privileges which the citizens of Edinburgh immemorially enjoyed, and of which they could not be deprived without injuring them, not only as citizens of Edinburgh, but as subjects of the kingdom. Had a bill been brought into parliament for breaking their charter, dissolv-

* "It may be necessary to acquaint the reader, that before this affair came to be agitated in parliament, great alterations happened in the high offices of the law. Lord Talbot had succeeded sir Peter King, as lord chancellor of Great Britain. He was an illustrious exception to the venality charged upon the profession of the law; his life was moral, his heart was good, and his head was clear; nor did ever man fill that high station with greater abilities and approbation of the public. But just as the nation was, in a manner, beginning to reap the benefits of his virtues, he was snatched away by death. As lord Talbot had succeeded a very weak man, his abilities were the more conspicuous; but his successor, who was the lord Hardwicke, Chief Justice of the King's Bench, entered upon that high office, with as great expectations as ever man entered upon any office, and which were as effectually answered. Sir William Lee, a slow, but a sound lawyer, was made Lord Chief Justice of the King's Bench; sir John Willes, the Attorney-General, was made Chief Justice of the Court of Common-pleas; Dudley Ryder succeeded him as Attorney-General, and Mr. Strange was made Solicitor-General." Tindal.

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ing their corporation, or taking from them their right of sending a representative to parliament; that, indeed, had been striking at essentials, and there would have been great weight in what was objected by the noble lord. But it was agreed upon all hands that the town-guard is of a very late standing; and if so, it never can be reckoned among their ancient and immemorial privileges. Nor can I see how either the demolishing a gate, or the keeping it open, can affect them. It having been proved, my Lords, that it was owing to this gate being shut that the barbarous tumult happened, or at least that it was not suppressed; the preventing any such tumult for the future, is of much greater consequence, both to the crown and to the city, than any loss that the revenue of either can suffer by its being taken away. Nor, indeed, do I see any loss that can ensue, if a watch of the like nature with the night-watch in London were appointed to stand there so many hours each night, as the gate used to be kept shut. This method, we find, is very effectual in other cities.

I believe, my Lords, there have been very few bills brought into this House with which your lordships, however differing in opinion in other respects, will more heartily concur than with the present. We have seen bills of this kind before, and we have heard many plausible arguments advanced against them; but I cannot imagine how any one, who wishes well to his King and his country, can look upon the present Bill, which is calculated only to punish a visible neglect of the interest of both, as a job, and refuse his concurrence to it on that account. The time was, indeed, when races of popularity were run, and when gaining a borough or a county might have been the motives of dissent from a bill of this nature; but I hope there are no such persons now-a-days, at least I hope there are none among us, who will sacrifice the honour of government in general to any job, or to any selfish views whatever. Some think to govern nations by a party, without any view to the good of government in general; but it is a pitiful way of governing. A man who acts zealously for the good of his country, will make the rule of his conduct the interest of the whole, which is as much supported by the maxims of punishing open violations of, as rewarding particular services done to governments in general. Whoever, I say, acts in this manner, acts for the good of the whole.

The Duke of *Argyle* spoke to this effect:

I did not intend to have troubled your lordships with adding any thing to what I have said upon the subject of the Bill now before us; but I find myself so plainly pointed at, in the latter end of the speech of the noble lord who spoke last, that I think I am obliged to say something, that may acquit me of the imputation that his words insinuate. I should be very glad if I have mistaken the noble lord's design; which I have the more reason to hope I have done, because I have never failed to express the greatest friendship, I may say, love and esteem for his person; as I have always entertained the highest respect for his station and character. My Lords, I am no minister, I never was a minister, and I never will be one. Time was when I might have been a piece of a minister, but I was too sensible of my own want of capacity to engage in any state affairs; and I thank God, I had always too great a value for those few abilities which nature has given me to employ them in doing any drudgery, or any job of what kind soever. I have, ever since I set out in the world, (and I believe few set out more early) served my prince with my tongue, I have served him with any little interest I had, and I have served him in my trade; and were I to-morrow to be stripped of all the employments which I have endeavoured honestly and faithfully to deserve, I would serve him again, to the utmost of my power, and to the last drop of my blood. Can any man say, my Lords, that ever I ran the races of popularity, or that ever I was engaged in any dirty job of elections, even when I met with treatment, and was in circumstances which, perhaps, one would have thought might justify such a conduct? and can it be suspected that I will now be dipt in any such? I have opposed the present Bill, my Lords, because I look upon it to be an invasion upon property in that part of the kingdom. And on that account my Lords, were it upon no other, I have more reason to oppose it, than any man in this House, nay perhaps, than any man in the united kingdom: because there is none whose property is there so extensive as my own. I likewise look upon it, my Lords, as an encroachment upon liberty, and on this account, no man has better reason to oppose it. My family, my Lords, has been always persecuted, and has often bled under tyrants, and never had a breathing-time but that of liberty; and

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should bills of this nature pass into laws, there is reason to be afraid of their consequences, with respect to our liberties.

The Lord *Hardwicke* replied to the following effect:

That he observed with the greatest concern, that the noble lord who spoke last had mistaken his meaning; that he entertained the highest opinion of that noble lord's candour, integrity and abilities, and that it never was his intention to insinuate the least thing to the disadvantage, either of the noble peer, or any of his relations. That the words which had given the noble peer offence, were only to be understood of what had been practised in former times, and what possibly may be in the present; but that the noble lord was the last man in the world to whom he would have them applied.

PROCEEDINGS IN THE COMMONS RELATING TO THE MURDER OF CAPTAIN PORTEOUS: AND THE BILL AGAINST THE PROVOST AND CITY OF EDINBURGH.] May 16. The Bill entitled, "An Act to disable Alexander Wilson, esq. from taking, holding, or enjoying any office or place of Magistracy in the city of Edinburgh, or elsewhere in Great Britain, and for imprisoning the said Alexander Wilson, and for abolishing the Guard kept up in the said city, commonly called the town guard, and for taking away the gates of the Nether-Bow Port of the said city, and keeping open the same," was received from the Lords.

The Title of the Bill being read,

Mr. *Oglethorpe* opposed the receiving the Bill at all: because he was of opinion that the House of Lords would refuse to receive from that House any Bill of pains and penalties, which might affect any member of their House; and that if such a precedent was set, as that a House of Peers for every offence committed, or supposed to be committed by a commoner, might send down a Bill of pains and penalties to be passed in the House of Commons, the independency of the Commons must be utterly broken.

Sir *John Barnard*. Suppose the Bill which is sent down had enacted, that among other pains and penalties the city of Edinburgh should from henceforth cease to be a city or corporation. Could any gentleman, after the passing such a Bill, have kept his seat in this House as member for that city or corporation? Sir, he must have ceased to be a member, as soon as the corporation he represented ceased to be a corporation: and shall we ever receive a Bill from the other House for turning one of our own members out of doors? This House ought to shew as much respect for their constituents, from whom they derive their right of sitting here, as they would do to their representatives themselves. If any preference is due, it is due to that body from whom they derive their right of sitting in this place, for while they are judging one of their own members, they are judging of their own privileges; but while they are judging of their constituent's rights or properties, they are judging of what is not their own, but what they have only in trust: and of which they therefore ought to be more tender.

Mr. *Duncan Forbes*, [The King's Advocate for Scotland.] It would sound very ill, that a British House of Commons, in which there are but 45 representatives for Scotland, should receive such a bill: Edinburgh is now a city of Great Britain, nay, the second city. And I appeal to the gentlemen who represent the cities and boroughs of England, to know in what manner they would treat a Bill inflicting such pains and penalties upon any of the cities which they represent. They are in honour obliged to protect the Commons of Scotland as much as the Commons of England; because the Scots trusted to their honour, when they united with them upon the terms they did. They are in prudence obliged to protect the privileges of every borough of Scotland as much as the privileges of any borough of England; because no incroachment can be made, no injury done to the one, but what may be made a precedent for doing the same to the other: If they allow the other House to incroach upon the privileges of the Commons of Scotland, it will be a precedent for their incroaching upon the Commons of England. If they accept of this Bill, if they give it a reading, I shall soon expect to see a Bill brought them from the other House, for turning some of their members out of doors.

Sir *William Yonge*. The other House has a power of enquiring. When they begun the exercise of that power, they found it necessary to go a step farther, and to punish as well as enquire, which they could do no otherwise than by the Bill now before us. As this is their only aim, as it is an aim which cannot but be ap-

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proved, I hope this House will not be too jealous of its privileges on such an occasion; for even though it were indisputable that the other House ought not to be allowed to bring in a Bill for inflicting pains and penalties upon any city or borough of Great Britain, yet in a case where no incroachment is intended, and which may so greatly contribute to the domestic peace and quiet of the kingdom, it is absolutely necessary for both Houses, not to be overscrupulous in point of privilege.

Sir *Robert Walpole.* It was very natural for the other House to enter upon this enquiry, because there is generally a kind of cessation of business in that House, during the first three or four weeks of the session, which are generally in the House of Commons taken up in settling the Supplies for the current service of the government. I am as jealous of the rights of this House, as any gentleman here; but I think too scrupulous a jealousy may at this time be attended with the worst of consequences. As to what my honourable and learned friend behind me mentioned, about the tenderness we ought to shew to the corporations and boroughs we represent, espedially those of Scotland; I think, Sir, our going upon this Bill is the greatest mark of tenderness we can shew. It is in order to punish, in a more exemplary manner, a practice, that has been but too much encouraged of late; a practice that, if not suppressed, must destroy the right of all corporations, and perhaps abolish the privileges of this House, and the very form of our constitution. The other House having entered upon this enquiry, has brought the Bill to such a forwardness, that perhaps it may come time enough to prevent the consequences before it is too late; therefore, I think, we are rather obliged to the care and concern they have taken in this affair, and I hope gentlemen will not oppose the Bill, without better reasons than any that have yet appeared.

Sir *William Wyndham.* I am very sorry that what the honourable gentleman who spoke last has said is but too true. The first part of our session is commonly spent in granting money to the crown; but formerly it was otherwise; and if this House had taken example by their ancestors, instead of voting a Supply the second or third day of the session, they would have voted an enquiry into those Riots and Tumults, which of late have been so frequent and so general all over the kingdom; for the people never grow tumultuous without some cause, and it is very probable the late tumults have proceeded from some abuses or some grievances which they ought to enquire into. The best way of judging of men's intentions is by their actions; and as the Bill brought from the other House is certainly, as we think, an incroachment upon the privileges of this House, the surest and safest way of judging is, to suppose an incroachment was intended. Incroachments have always been made at the most favourable junctures; and if ever the other House should endeavour to incroach upon this, they will always take occasion to do it, with respect to Bills which seem absolutely necessary; so that if we made the expediency, or even the necessity of a Bill, a good reason for submitting to an incroachment, we should very soon have no privileges left. As this House is the grand inquest of the nation, it is their proper business to enquire into all public abuses, especially where any of their own members are concerned; and if the other House does upon any occasion take upon them to enquire into any such public abuse, they ought to proceed no further; they might then at a conference communicate to that House the discoveries they had made, and leave it to that House to proceed by impeachment, or by a Bill of pains and penalties; which the other House might have done in the present case; and their not having done so seems to shew, they had an intention to take advantage of that favourable opportunity for making a little incroachment upon a privilege, which they knew would have otherwise been strenuously contested. Whether or no there is a necessity for punishing the city, or any of the magistrates of Edinburgh, cannot appear to us now, and therefore cannot be an argument of the least weight in this debate; but suppose there is such a necessity, there is no necessity of the session's breaking up at a certain day. We may go upon an enquiry immediately; the witnesses are all in town; these witnesses may soon be examined; and upon that examination, we may order a new Bill to be brought in, if we saw cause; and that new Bill may pass through both Houses long before it will be absolutely necessary to put an end to the session: therefore, I see no inconvenience that can ensue from not receiving the Bill now brought from the other House; and for that reason cannot agree to its being read a first time.

The Bill, however, was read a first time,

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and upon a motion for reading it a second time,

Mr. *Patrick Lindsay*, member for Edinburgh, spoke as follows:

Sir; The concern which I have in this Bill, as it affects the rights, the privileges, and franchises of the city which I have the honour to represent in this House, as well as it affects personally him who has now the honour to be the chief magistrate of that city; this concern, I say, Sir, will, I hope, plead my excuse to this honourable House, for presuming to take upon me, Sir, to submit to your consideration, my sense of this Bill, and of the effects of it, should it pass into a law. Sir, that cruel, barbarous and inhuman murder, that most outrageous and atrocious riot, which was committed at Edinburgh the 7th of September last, must affect every person of humanity with horror: and as it was, Sir, a trampling upon all civil governments, and a bold and manifest violation of the laws, and a direct insult upon the legal authority, it cannot fail to raise gentlemen's indignation, and to rouse the resentment of every true Briton to do justice to the public, by pursuing any measure that may be most likely to punish so black a crime, a crime so dangerous to civil society, and to bring the execrable and desperate authors of it to condign punishment. But, Sir, I hope gentlemen's zeal for justice will not so far blind their understanding, as to allow themselves to be diverted from the pursuit of justice and to be misled from the right scent by falling upon the innocent, and there to allow the guilty to escape and to pass unheeded. By whom, Sir, was this bloody murder, this outrageous riot committed? By a mob, Sir; a mob composed, as mobs commonly are, of the lowest class of the people, by persons of dissolute and bad lives, and of worse manners; persons who despise the office of magistracy, and hate the persons of magistrates, because magistrates punish and controul their crimes, and restrain them from acts of violence, and from committing disorders; persons who are prone to do mischief, and when they can do it with hopes of impunity, rarely fail to insult and abuse the persons of magistrates. And who, Sir, are by this Bill to be punished for this riot? Those who committed the insult? No, Sir; by this Bill those who were insulted are to be punished. Is the insolence of the multitude to be represt by this Bill? No, Sir; the hands of the civil magistrate are to be weakened by this Bill. In a free country, Sir, the civil magistrate can only suppress and prevent riots and disorders: and how? By punishing of rioters and disorderly persons. And if the hands of the civil magistrate are not strengthened, the office of magistracy must become useless.

Sir; I have observed, since I came last to this place, that a very odd notion has prevailed here, and with great grief and concern, Sir, I find this notion to be general, that persons of all ranks, (in that country where that abominable crime was committed) favour this foul, this black, this most detestable crime; than which, Sir, nothing is more unjust, nothing more false and untrue. I therefore beg leave to explain this a little. The mobs in that part of the kingdom, Sir, resemble very much the mobs here; they are composed here as well as there (and I believe every where) of such persons as I have just now described to you; but there is one difference betwixt the mobs in that country and your mobs here, and that is, however wicked the mobs in that country may be, yet they are not so abandoned as to do mischief with their eyes open. But, Sir, the lowest class of people in that country have generally speaking a turn to enthusiasm, and so strong is the influence, such is the force of delusion, that they can work themselves up to a firm persuasion and thorough belief that any mischief they are to do is not only lawful but laudable; that it is their duty to do it, and from a religious principle, to do it at any risque, even at the risque of their lives.—Hence it is, Sir, that riots and disorders are less frequent in that country than here, and when mobs do rise there, they are more determined, and consequently more dangerous. The unthinking multitude, Sir, are but too much encouraged in this by the clergy; for when the clergy are like to be defeated or disappointed in any particular view of disposing of any ecclesiastical benefice and preferment as they have a mind, because the law stands in their way, they abuse the unwary people, and spirit them up to despise and disobey the law, by this dangerous doctrine, too often inculcated upon such occasions, 'That such a 'law is iniquity established by law.'

This dangerous doctrine, this seditious practice, in openly and publicly maintaining it, cannot be charged, Sir, upon the church of Scotland, or upon the clergy of that country in general. They, by much the major part of them, are good

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men as well as good Christians, men of sound principles in their lives, and in their practice, blameless; men who think, as every gentleman of this House does, that the laws of every country ought to be obeyed, as the sole and only rule of government in every country; but this seditious doctrine is preached up by those wild, hot-headed, violent high church clergy, who are not to be satisfied with any power, unless they possess all power; and by them only. Yes, Sir, I am sorry to say it, we have high-church Presbyterians, who have higher notions of clerical power, than any Protestant clergy whatever; some there are, Sir, who assert and maintain an absolute independency on the civil power. Sir, the dangerous effect of doctrines of this kind is, that when men are taught and brought to believe, that any law whatever is iniquity established by law, and while it remains in force under the sanction of the legislature it may nevertheless be disobeyed, and the civil magistrate resisted in the execution of it, men of weak understanding and strong passions will easily deceive themselves, and look upon every law that interferes with their passions to be iniquity; especially, Sir, if they have, as all weak people commonly have, a good opinion of themselves and of their own superior sanctity and holiness.

Now, Sir, I must beg leave to explain the source of these late disorders, that have given so much trouble to the legislature. The pernicious practice of Smuggling prejudicial to the fair trader, and so hurtful to the common and general good of the nation, has prevailed but too much in that country, Sir, as well as in this. Whoever, Sir, may be the importers and proprietors of run goods, it is most certain, that the lowest class of men, the dregs of the people, those persons who compose mobs, are the persons employed in the running of these goods, and they get so much more, by this illicit trade, than they can by honest labour, that they neglect their labour for the sake of this vile and destructive trade.

As this lowest herd of mankind have been taught that one law is iniquity, they have taught themselves that some other laws are so too; if one may judge of their principles by their practice, all your revenue laws stand in an unfavourable light with them.

Every gentleman, Sir, has heard of the execution of that noted smuggler Andrew Wilson, whence all this mischief has flowed. That deluded man maintained, to the hour of his death, that he was most unjustly condemned, and died with great tranquillity; so firm, so fixed was he in the belief of his own innocence; he maintained this, Sir, in a debate with one of the reverend ministers of Edinburgh, and a very able clergyman he is. When this minister was endeavouring to undeceive him, and bring him to a sense of his guilt of the crime for which he was condemned, he admitted that he had taken money from a collector of the revenue by violence; that he did it because he knew no other way of coming at it; that the officers of the revenue had by their practice taught him this was lawful, for they had often seized and carried off his goods by violence, and so long as they had goods of his of greater value in their hands than all the money he took from them, they were still in his debt, and he had done no wrong.

I am afraid, Sir, this martyr to this new heretical sect of Smuggling was too much favoured by the misled and unwary multitude; too many of them thought, as he himself did, that he was unjustly condemned, and every one who firmly believed this would, no doubt, think it his duty to save and to rescue this innocent person (as they thought him) from the rigour of law; and, Sir, if the magistrates of Edinburgh had not taken extraordinary precautions to put this sentence in execution, he, this Wilson, would very probably have been rescued by the multitude. But, Sir, when they saw themselves disappointed, no sooner was this execution over, than they began to wreck their malice upon that guard which had, upon many other occasions as well as that, supprest their disorders, and restrained their guilty hands from doing of mischief, and committing of real not imaginary iniquity; upon that guard, which is to be abolished by this Bill.——Upon this occasion, Sir, the unhappy person who then commanded the guard, did, from an apprehension, I suppose, that he might be overpowered by the great crowds of people then assembled, defend himself and his men by their fire arms, whereby several of the multitude were killed and wounded: and what were the effects of this, Sir? The persons who were then killed and wounded were of that class of people who commonly attend such melancholy spectacles, that is, of the lowest class. The mob from that moment began to murmur, from an apprehension, that because no person of rank and condi-

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tion had been killed, therefore would this barbarous murderer (as they called him) escape from justice by the favour of persons of condition. And in this, Sir, they were not mistaken, for no sooner was this unhappy person condemned by law, than numbers of persons of condition set a Petition on foot to intercede with her Majesty, (then Guardian of the Realm) for mercy; they did this, Sir, not so much out of tenderness to this man, that they thought his case hard, as from another motive, a motive of a public nature; and that was, Sir, should this sentence have taken effect, the mob would become more insolent, when they found that the civil magistrate, or other persons acting under his authority, were in no better case than they who resisted the civil magistrate in the execution of the law; but if by this man's pardon, if by the interposition of mercy from the crown, they were convinced, that every person who acted by law, to put the laws in execution, acted safely, and that every person that acted otherwise did it with a rope about his neck, that would effectually suppress the insolence of the multitude, and force obedience to the law, even from those base minds who by force alone are to be driven into a sense of their duty. Who then, Sir, of that country approves of that wicked murder and riot? The mob only, by whom it was committed; persons who have no property, and therefore are fond of disorders, because they can lose nothing by disorders, and if they can escape corporal punishment, are often gainers by public calamity and disorder.

This then, Sir, appears plainly to be a dispute betwixt the people of Scotland, (by whom, Sir, I mean every man of property, every freeman, every man who may suffer by the subversion of the laws, and by the loss of liberty) and whom, Sir? The canalzie, the dregs of the people of Scotland, that class who are anciently called by your law, villains; that ignorant herd of bigots, who are always misled by crafty and ill-designing clergymen; for men of sense and knowledge, Sir, have a much surer and a better guide, that is, right reason, that eternal and unerring rule.

Sir, it is a great misfortune to that country where this bloody tragedy was acted, that many gentlemen who hear me are so much strangers to it, strangers to its laws and customs, strangers to the manners and tempers of the people, strangers to these different ways of thinking of the people of knowledge and condition, from the principles of the inferior multitude, which I have now, Sir, been endeavouring to explain to you, so far as they relate to the present case.

Therefore, Sir, if it is the sense of the House to proceed upon this Bill, the consideration of it requires the greater attention, the interest of England makes it necessary; it is an affair of the utmost consequence to the liberty of the subject, and as it ought, it will no doubt be treated as such, for the united kingdom is greatly interested in the manner of determining of this Bill, as well as in the fate of it.

Sir, While the two nations remained in a state of independency, those frequent wars, which are but too common betwixt neighbouring nations, begot mutual fears, mutual jealousies and distrusts, national hatred, and national aversions; but as the cause of these national feuds and enmities most happily ceased by the Union of the crowns, I hope, Sir, the effect also ceased with the cause. From that happy period, Sir, both nations were embarked upon the same bottom; the honour and interest of both became the common and inseparable cause of both; the honour and interest of one could not be hurt without affecting the other; and I think, Sir, the subjects of both nations became very soon sensible of this, that by that happy accident they were reduced from a state of enmity to a state of perpetual friendship; and I think we may observe from experience, that those national prejudices and distrusts began very soon to abate: even so early, Sir, as the unhappy civil war in the reign of king Charles I, which broke out within less than 40 years after the Union of the crowns. May we not observe, Sir, the subjects of both nations, who were of the same sentiments and opinions with regard to the causes of that unhappy war, making and entering into alliances and confederacies with one another against the subjects of both nations who were of contrary sentiments? Was not that war carried on by Scotsmen and Englishmen against Englishmen and Scotsmen without the least national distinction, or national distrust? They were even at that time, Sir, perfectly sensible, that the liberties of any one of the nations could not be subverted without destroying the liberties of the whole, and that the whole could not be preserved unless the liberty of every part of the whole was preserved and secured upon the same footing.

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The same thing appeared, Sir, at the late happy Revolution; were not the subjects of both nations equally forward, equally zealous in the cause of liberty, a cause inseparably common to both? And did not a few of both nations, without distinction, adhere to what they called the prerogative of the crown, and the indefeasible right of the unhappy and unfortunate prince then upon the throne? But now, Sir, we are in a situation very different from that; we are now, by an incorporating union, become one and the same people, bound and cemented together by all the ties that bind individuals in civil society.

The representative body of the people of Scotland did, upon that occasion, Sir, express an absolute trust and confidence in this nation of England; no security, no guarantee whatever, was on their part required for the performance of the several articles and conditions stipulated by that treaty in our favour, other than the faith of a British parliament. In this, they acted most wisely; for what security, what force, what power, what constitution could have been contrived, that could have proved so absolute, so real, and so effectual a security, as the faith, the justice, the honour, the candour of an English parliament; I say an English parliament, Sir; for in a parliament of Great-Britain, the representatives of that part of the United Kingdom do not make up the tenth part of either House.

We had, Sir, the experience of ages to induce us to follow so wise a course; the legislature of England had always acted wisely, never like arbitrary governments, from caprice or humour, but had always steadily pursued the real interests of the nation of England with great judgment, great sagacity and forecast; and we were sensible that our interests were the same with yours, that so long as you minded your own interests, ours must be safe in your hands. Then, however weak and ignorant people may think or act, people who are weak enough to be misled by national prejudices, yet the wisdom of the nation will always act uniformly, always act wisely.

I know, Sir, it is the way of speaking without doors among such weak and foolish people, that the legislature may be unconcerned and indifferent as to any public measure as to Scotland; that it is a matter of no moment how or in what manner any public law affects that country; whether these people are dissatisfied or not, should they be ever so much displeased, ever so much angry, it is of no consequence; should they even take it into their heads to mutiny and to rise in rebellion, it signifies nothing, for we have always as many troops quartered amongst them as are sufficient to conquer them. This is easily said, Sir, and I admit it might be as easily done too; but because such a thing might be done, would such a measure be just, would it be a wise measure? Sir, so foolish and so foul a deed as this would be falsely called conquest; it would be an act of treachery, it would be treason, Sir, treason of the blackest kind! treason against the people! If any person of condition was to talk thus, should the greatest person of the nation insinuate such a thing by way of advice, this House would take notice of it, Sir; this House would impeach such a person as an enemy to the public, as a most dangerous public enemy; and give me leave to say, that if ever the legislature should be so blind to its own interest, so false to the trust reposed in them by the people, as to allow such a use to be made as this of those forces, which are maintained by the people, for the preservation of their liberty, the same number that could conquer Scotland, could with much greater facility conquer England.

Such conquests as these, Sir, are easily made; very little skill would be required in the general that would make so glorious a conquest; treachery, treachery alone is the only qualification necessary for the executioner of such a project. But would the conquest be as easily maintained as made? No, Sir. It is a common saying, that oppression makes all men of one mind. In that event, ten times the number of forces that made this conquest, and perhaps made it with ease too, would prove too few to maintain it. Every gentleman, who is the least acquainted with history, knows what miracles oppression hath worked upon the oppressed. Do not the states of Holland owe their being to oppression? Do not the Swiss Cantons owe their freedom and independency to oppression? Does not Portugal owe its independency to the indiscrete and oppressive measures of the court of Spain? But I beg leave, Sir, to bring one instance nearer home. The Cambrian Gauls were reduced by force of arms. As the conquest of this powerful country was once determined by the fate of one battle at Hastings, so they, Sir,

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after the loss of a battle, were obliged (as you did) to submit to necessity. This conquest was easily made; but was it as easily maintained? No, Sir; every one knows what blood and treasure it cost you to keep this province in subjection; and so sensible were your ancestors of this, that after the experience of nearly three centuries, Sir, such was their wisdom, that they of their own accord, and a wise measure it was, Sir! I say, of their own accord, made that brave and invincible people a free people; and how, Sir? By admitting them to share as the legislature in this House, by making them one and the same people nationally with yourselves, and removing, as far in you lay, all national distinctions, that there should be no more difference between an English and a Welsh man than there now is between an ancient Briton, a Roman, a Saxon, an Angle, a Jute, a Dane, or a Norman.

Is it then to be imagined, Sir, that the legislature of Great Britain could be capable of such indiscretion as to destroy, or in the least to impair and abate, that harmony between the two united nations, upon which the happiness of both so much depends? That you, Sir, could by any unequal dealing, or partial procedure, force that antient and invincible nation, that free and independent nation, who, of their own accord, freely, without the least restraint or necessity, trusted themselves absolutely to your faith, after both nations had from an experience of 100 years, from a just sense of their true and real interests, come to an absolute and determined resolution to become absolutely and entirely one and the same people! That you, Sir, who are the sole and only guarantees of this treaty, should force this nation from this state of friendship, a friendship secured by every tie that can bind friends! That you, I say, Sir, should force them back again into a state of enmity! That you should, contrary to all common sense and common honesty, betray this great trust, and by acts of severity and oppression, drive this nation into a state of slavery! This, Sir, is absolutely impossible so long as mankind are possessed of common sense in the smallest degree; for no argument is necessary, Sir, to convince you, that if ever any part, especially so great and considerable a part of this united kingdom, is reduced to a state of slavery, the whole must soon undergo the same fate. We are now too closely united, not only bound but cemented together, by too many and too strong ties, to be ever separated, without tearing out the vitals of the United Kingdom, and rending it into pieces. In all events, both must share the same fate, both must be free, or both must be slaves. A free state, Sir, knows no master but the law; freemen are governed by law, and by law only; slaves are governed not by law but by arbitrary rule, by acts of violence, and by military force; and whoever is master of that force, must be master of all. If any part of the United Kingdom must submit to slavery, all and every part must submit to slavery, for no proposition is more obvious and self-evident than this, that in a national sense, Scotland is as much a part of England as the counties of Kent or of Cornwall are; and this county of Middlesex, and every part of England, is as much a part of Scotland as the county of Edinburgh is: that the interests of all and of every part of Great Britain are so absolutely and so entirely the same, that no one part can be hurt without affecting the whole, no more than the natural body can be hurt or maimed in any of its members without feeling pain; and therefore, Sir, every part of the whole must be equally the care of the legislature: and if this be so, then, Sir, this Bill must stand or fall by its own merits. It will be tried by this House, Sir, with the utmost impartiality, and with the strictest regard to justice. It will be considered by this House, Sir, as if this unhappy disorder had been committed in the city of London, in York, Bristol, or any other corporation in England; and I submit it to gentlemen's consideration, how they, especially they who represent cities and burghs, how they, I say, like Bills of this kind. Because a disorder and a crime has been committed, and because the criminals have escaped and fled from justice, therefore the magistrates of that city or burgh are to be punished by bill, and the corporation itself suffer in its rights and franchises, and be deprived of its privileges. I have already hinted at the first attempt that was made upon the liberties of this island: Gentlemen will observe where that first attempt was made, and where it pointed, and they may thank their ancestors of that generation, who had sagacity and forecast enough to foresee where it must end, and foresaw it before it was too late. *Principiis obsta* is a good maxim.

I am not lawyer enough, Sir, to form any opinion of Bills of this nature, but one

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part of the procedure in another place, in order to found this Bill, appears to me to be somewhat dangerous to the privileges of the commons of Great Britain; and that is, Sir, the magistrates of Edinburgh are ordered to attend at the bar of another House on a certain day; they appear, but we are not told whether they are ordered to attend as evidences to give information, or as persons accused of any thing. No, Sir; they are directly put upon oath, and severally examined, direct questions put, and direct and categorical answers insisted upon, under no less penalty than contempt. They are not told, Sir, your answer to this or to that question may affect yourself penally, and therefore you are at freedom to answer it or not; and nevertheless, Sir, upon those answers is the Bill founded. I say, Sir, I shall not pretend to form any opinion of Bills of this kind. In my present way of thinking, Sir, every state must have a power to save itself, that the whole legislature may use any method whatever to save the public; but I have always understood that proceedings by bills, such as this, were always considered remedies in cases of extreme necessity, and in such only. Therefore the first question before you, Sir, is, Whether this be a case of that kind?

I am sensible, Sir, I cannot now enter upon the merits of this Bill, but I hope it will not be improper, if I explain to the House the occasion of this Bill. The report, Sir, that the mob would make an attempt to commit this crime was pretty universal, and that this attempt was to be made upon the day appointed for this unhappy man's execution, unless he was executed at the usual hour according to his sentence. Agreeable to this intelligence the magistrates of Edinburgh used precautions, and proper precautions they were, Sir, to prevent this mischief; but the mob, Sir, they were likewise sensible that their wicked purpose might reach the ears of the magistrates, and if it did, were likewise sensible, from fatal and dear-bought experience, that the magistrates of Edinburgh had always, and upon all former occasions, by the means of this city guard, suppress mobs and tumults, and punished the authors and ringleaders of them with great severity. By all that can be learned, (and great pains have been taken to make discovery) I say, Sir, it appears by the discoveries that have been made, that the mob despaired of success, and therefore, a number of the most determined entered into a conspiracy, and bound themselves by a solemn oath to execute any purpose that should be agreed on by the majority, and to lose their lives rather than discover this secret, or to discover one another; and if gentlemen knew how strong and sacred a tie an oath is with these people, they would not be surprised that this secret was so well kept. There is no direct proof of this, Sir, but the presumption from several circumstances is very strong, and the event makes it highly probable. For this attempt to surprise and disarm the city guard, upon which the success of their whole scheme depended, was executed in a moment, upon a signal, and at a time when no magistrate or citizen of Edinburgh had the least suspicion of it, nor indeed any other person, unless those who were in the plot. This, Sir, plainly appears to have been the case; and if it is so, where is the guilt of the magistrates or citizens of Edinburgh? All the world heard, Sir, of mischiefs that were threatened by the mob here, when the Gin Act was to take place, and agreeable to these reports, precautions were taken to prevent these riots and disorders that were threatened; but when, Sir? upon Michaelmas eve only, and not before. Now, Sir, suppose a number of this mob had engaged themselves in a plot, and kept their secret, and had, the night before these precautions were taken, committed any outrageous and criminal act of violence, and had, under the favour of the night and other disguises of apparel, all of them made their escape, would it have been thought necessary to have brought in a Bill to punish the magistrates of the cities of London and Westminster? Sir, I think this is precisely the case, and I therefore submit it to the House, if there is the least foundation for this Bill? Should this Bill pass into a law, the office of civil magistracy would become so dangerous that no wise man, no prudent man, would ever accept of it; and if the magistrates of this city have been, at this period, unable to suppress a tumult, when they had power to support their authority, how can they preserve the peace of this populous city, when that power is taken from them? This city guard, Sir, is a watch, a watch by day as well as by night; it is a creature of the civil magistrate, under his direction only; it is subject to no mutiny act, but governed by the same law as other subjects are, and if it should be abolished, what would be the consequence? If this Bill should pass into a law, this ancient city, this metro-

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polis of one of the United Kingdoms, must either be reduced to a state of anarchy and confusion, to be governed by the licentious and unruly multitude, or, which is worse, it must submit to a military government, and so by a side wind, and without any design, you shall, in consequence of this Bill, introduce a practice that must very soon put an end to all liberty. For, Sir, when you cannot execute the law, nor preserve the peace without military force, when those who have the direction of that force shall become sensible that they, and they alone, can execute your laws, they will soon become the makers as well as the executioners of your laws, as once happened to this nation already, when your own army, under that crafty traitor Cromwell, usurped the whole power of the legislature, and of the civil magistrate. For these reasons, Sir, I hope you will proceed no further upon this Bill.*

These and the foregoing reasons had such weight with the Commons, that though the Bill was ordered a second reading, the House agreed, upon a motion made by sir John Barnard, "That the Lords be desired, that the grounds upon which the said Bill proceeded in their House may be communicated to the House of Commons at a conference."

May 18. The Lords at a conference delivered to the managers for the Commons, an authentic Extract of the Proceedings in the Trial of captain John Porteous, wherein was contained the Verdict against the said captain Porteous, the Sentence of the Lords of the Justiciary of Scotland against him, and the Reprieve of the said captain Porteous granted by her Majesty as guardian of the realm. As also, a Letter from Alexander Wilson, Provost of Edinburgh, to major-general Moyle, dated Edinburgh, April 13, 1736.

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* Shortly after the delivery of this Speech, the following Letter from Mr. Lindsay to a gentleman in Edinburgh, appeared in the Periodical Journals:

"Sir, London, June 17, 1737.

"When I received your letter, and at the same time accounts from several other hands to the same purpose, that I had, by my Speech upon the first reading of the Bill against the city of Edinburgh, given a greater wound to the cause than all the evidence brought in support of the bill could do; that I had, from private and selfish views of my own, betrayed, and in effect given up the town, lest I should disoblige the great men who had the disposal of places, with a great many other reflections of the same kind; I say, I received these disagreeable informations when I was closely employed, by attending the examinations of the witnesses for and against this Bill. My head was then too full of the business in hand to attend to any thing else; for I chuse to suffer by calumny and reproach, I chuse to be traduced by every mean, every base and false art, that malice and envy can suggest, rather than that city I have the honour to represent in parliament, should be hurt in the least by any neglect of mine. Personal slander, defamation and detraction, can hurt myself only, but if the city should be hurt, the interests of many may be affected; and while I have the honour to be in this station, I think myself bound to prefer the interests of those many to my own private and individual interest. This is the reason why I could not then gratify your request; but now that I have got a leisure hour, I have made out and herewith send you that Speech in writing, as it was delivered in the House, that you and the world may judge whether I did my duty or no.

"My chief business, since I came last to London, has been to explain to every body as I had occasion, especially to members of parliament, to whom I am now pretty universally known, this unhappy story of the conduct of the city, with regard to the cruel fate of Porteous, in order to take off the impressions that had been made by gross and false misrepresentations of the facts; and I thought it incumbent upon me, when the Bill came down from the Lords, to explain to the House, in the best manner I could, that which I had done to hundreds of individuals. I did it with design to serve the common cause of all mankind in defence and support of civil liberty; I intended it for the service and honour of my country in general, and for the interest of the city of Edinburgh in particular, and in that sense every one here understood it.

"I was told by some persons of the highest rank, who thought this Bill, as it then stood, a necessary measure, and therefore a just one, that I had done exceedingly well upon that occasion, but that my zeal for the city of Edinburgh had carried me too far. If that zeal has hurt me personally, it has served the city of Edinburgh, and I shall always be proud to serve it, at the expence of my own private interest.

"I can assure you with truth, that part of this Speech, which I hear is found fault with at Edinburgh, is not in the least blamed here, by any one in either side of this question; and how any one of my own country should blame me, I own I am at a loss to find out, unless it be the four reverend brethren and their followers. They may take offence, as they do at every one that differs with them, and I happen to differ with them in opinion in several particulars; but as I am never dogmatic, I hope, that they will even have the same charity for

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Which authentic Extract and Letter were brought up to the table, and the Report being read, it was ordered, "That Mr. Attorney General, and Mr. Solicitor General, take care that the Evidence for the ingrossed Bill from the Lords (entitled as before mentioned) be ready to be produced to the House upon that day sevennight; and likewise, that Mr. Attorney General appoint counsel learned in the law, to produce and manage the Evidence at the bar of the House upon that day sevennight, to make good the allegations of the said Bill; and that the following persons attend the House on that day sevennight, viz. major-general Moyle, colonel Dūroure, major Poole, captain Bendish, lieut. Ashton, major Roberton, John Din, John Bailey, Alexander Nisbet, Robert Stuart, George Irvine, Thomas Young, Roderic Brown, and Christopher Chissolm.

May 20, was presented to the House, and read, a Petition of Alexander Wilson, esq. Lord Provost of the city of Edinburgh, averring his intire innocence of the several matters alledged against him in the preamble of a Bill, then depending in that House, (entitled as before mentioned) and therefore praying that he might be heard by his counsel against the said Bill, at the second reading thereof, which was accordingly ordered. And on the Tuesday following, was presented to the House, and read, a Petition of the Magistrates and the Town Council of the city of Edinburgh, in the name of themselves, and community of the same, setting forth "That the Petitioners apprehended, that if the Bill then depending in that House (entitled, as before mentioned) should pass into a law, it would greatly affect, and tend to destroy, the rights, franchises, privileges, and liberties, of the said city of Edinburgh; and therefore praying that the premises might be taken into consideration, and that the petitioners might be heard by their counsel against such parts of the said Bill, as affected the said city. Which was accordingly ordered. And then captain Lind and Mr. James Allen were ordered to attend that House next morning; when upon reading the order of the day, for that Bill's being read a second time, it was proposed to put off the second reading of it for a month. But a motion being made for reading it a second time on that day se'nnight, after some debate, the question was put upon the motion for

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me, that I have for them; if they should be in the right, and I in the wrong, that may be a misfortune, but can be no fault, because I act (as I believe they do) from principle; I act by the light and dictates of my own conscience, the best, and indeed the only guide, that every honest mind can have. That part of this Speech I think needs no explanation, for it is obvious.

"That every clergyman who has at any time mentioned, publicly, that any law or statute in force whatever is 'Iniquity established 'by law,' and that such law, while it remains in force under the sanction of the legislature, ought not to be obeyed, and that the civil magistrate may and ought to be resisted by force and violence in the execution of such law; every person who maintains this doctrine (a doctrine in my opinion destructive to society) is expressly meant by this Speech; and I submit it to every man of common sense, if any one else can be meant.

"I can affirm from my personal knowledge of the reverend ministers of the city of Edinburgh, that none of them does in the least favour this dangerous opinion, and I can say the same of the citizens, so far as my acquaintance reaches, and you know it is very general. As for the lowest class of people, those who compose mobs, I know them by their actions only, I can only judge of their principles and opinions by their conduct; if these are at any time misled to do mischief through ignorance and mistake, those who misled them are more to blame than themselves.

"Ever since I have had the honour to be in parliament, I have constantly attended the service of parliament, and have thereby learned so much of the order of the House, that a member who is to speak to a bill on the first reading, ought to consider well what he is to say, because he cannot then properly enter upon the merits of the bill; after I had considered and weighed, to the best of my own poor understanding, what I looked upon as my duty to say, I made distinct notes of every head and purpose I was to speak to; these notes I held in my hand, that I might neither say more nor less than I intended; and these notes serve me now for another purpose, to make out in writing what I spoke upon the occasion; and as the matter is still fresh in my memory, I have given you the precise substance, and I think too the very words, at least I am sure I have here the words of every material expression I then used, to satisfy the world, and to satisfy those who may have misunderstood me, I dare say, from imperfect hearing. If there is any person malicious and wicked enough to misrepresent any thing I said knowingly, that may hurt themselves, it cannot hurt me, for I have long learned this lesson, 'Never to make ano-'ther man master of my time or my temper.'

"PATRICK LINDSAY."

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reading it a second time on that day se'nnight, which upon a division was carried in the affirmative by 146 to 99; after which, the several persons who were ordered to attend on that day, were ordered to attend on that day se'nnight.

June 1. The order of the day being read, the counsel for and against the Bill were called in, and the Bill being read a second time, the hearing of counsel, and examination of witnesses began, and was continued all that day, and all Thursday, Friday, Monday, Tuesday, and Wednesday following. And,

Mr. Lind, captain of the city guard, on the night of the riot, declared, "That on Friday before he waited on the Provost, and finding him in company with Mr. Lindsay, member for the city, and several other magistrates, he called him aside, and acquainted him with the report; who desired the said Lind to repeat the same things before the company, which he did, and they were all of opinion there was no foundation for the report; however, desired him to inquire into the grounds of it: That he (Lind) was out of town till the Monday evening, and after he came to town heard the report again; and repaired to Muirhead's coffee-house, to talk with the Provost, and sending his name in, had for answer, 'That the Provost was 'busy, but that he would be in the Coun'cil Chamber about 4 o'clock;' when he accordingly went to receive his orders for next day, but had none for preventing the riot."

One Din, and one Bailey, were the only witnesses, who declared "That they had heard such a report, and that they believed it long before the riot."

Bailey being examined about a conversation he had with Din on the Monday, declared "That Din spoke to him of it as a foolish story, and said that he himself did not believe it."

Sir James Campbell, Mr. Hamilton, and Mr. Lindsay, members of the House, declared, "That the present magistracy could not enter upon their offices till he (Din) was removed, on account of the infamy of his character."

The Evidence against the Bill endeavoured to prove, "That although the report went of such a design for some time before, yet there was nobody believed it: that the day given out was Wednesday, the day on which Porteous was to have been executed; that the Lord Provost had thereupon determined, in council, that the whole three companies of the town guard should mount upon that day, and that both he and the other magistrates, with the members of the Town Council, should be ready to attend, with the badges of their respective offices, in quelling the mob, should any happen."

It was on the other side proved, "That there was no order given for that purpose to the captain of the guard upon the Tuesday; neither was there any ammunition distributed, which precautions had been used at the time of Wilson's execution; and that it appeared there was not a flask of powder, nor a pound of shot, amongst all the town guard." To this it was answered, "That if the Provost had made any such preparations before the riot, it would have been the readiest way to have created one; that if the guard wanted ammunition, it was their captain's fault, because he always, when his men wanted ammunition, got an order from the treasurer, empowering the store-keeper to deliver out what was necessary for that purpose." Young, the treasurer's, and Hislop, the store-keeper's evidence, confirmed this.

It was then objected to the Provost, "That there were two ways by which Porteous might have been secured from the mob. The first was, to have sent him to the castle." The other, that he might have been sent to the Cannongate Tolbooth. In answer to this it was said, "That the sentence pronounced on Porteous by the lords justiciary run, 'That he should be sent back to the Tolbooth of Edinburgh, there to remain till the execution of the sentence;' and that it was not in the Provost's power to have sent him to the castle, there being no instance of such a power's having been exerted since the Union, and that even before the Union, it could only have been done by a warrant from the privy council of Scotland; and as for sending him to the Cannongate, he had as little power, because the Cannongate was a regality, and governed by its own magistrates."

A Scotish clergyman, Mr. Yates, declared, "That being appointed to preach in the church where Porteous was allowed to hear a sermon on the Sunday before his murder, he afterwards waited on Porteous, and took occasion to acquaint him with the report he had heard, desiring him at the same time to take care whom he admitted into his room." Mr. Yates added, "That Porteous slighted his informa-

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tion, and said, 'Were he once at liberty, 'he was so little apprehensive of the peo- 'ple, that he would not fear to walk at the 'Cross of Edinburgh, with only his cane 'in his hand as usual.'"

But the most material evidence against the Provost, was the aforesaid Bailey, who insisted that he heard it in every company, that the design was to be put in execution on the Tuesday, and that he drank with several who had openly approved of it. To which it was answered, That if Bailey kept such company, there was little stress to be laid on his evidence; especially as he did not pretend to affirm that he had ever acquainted the Provost either with the report, or the person's name who approved the design.

As to what passed during the time of the riot, captain Lind said, "That being informed that the mob was gathering, he went to Clark's tavern, where the Provost was drinking with Mr. Bur, and other officers of his Majesty's ship the Dreadnought, then stationed in the road of Leith, and upon acquainting him with the danger, the Provost desired him to go immediately back, and draw out his men, and that he would instantly follow him, and put himself at the head of the guard to face the mob. That he accordingly went to the guard, but found that the mob was already in possession of the guard-house, having disarmed them, and that they were distributing the arms of the guard out at the window; whereupon they instantly returned, and met the Provost coming towards the guard. That they immediately resolved to send Mr. Lindsay to general Moyle, who went accordingly: that they marched again out of the tavern, to which they were obliged to retire, to quel the mob; and after a fruitless attack upon the mob, in which some of the Provost's company were wounded, they were beat back: he likewise said, there were but ten or twelve men, besides the serjeant, corporal and drummer, upon guard that night, there being eight or nine in prison on account of Wilson's execution, and as many absent either with or without leave. That when he appeared first to the mob, they desired him to be gone, for they had nothing to say to him."

One Hunter declared, in a very distinct manner, "That when the mob began to gather at the Nether-Bow, he was coming by the guard, and told the serjeant, or the sentry, 'The mob was gathered, and 'seemed resolved to have their will, and 'bid them take care of themselves.' That captain Lind, in the mean time, came down from the Provost, that he neither heard nor saw him give any orders to the guard, only when he saw the mob gathered towards the head of Black-friar wind, he clapt his hand to his sword, and cried, God's mercy, what's that? And away he run as fast as his feet could carry him."

Sutherland, the serjeant, said, "That when the captain was gone, a fellow with a blue cap came up and asked the sentry what it was o'clock? This it seems was the signal agreed on by the conspirators; for in a trice the same fellow, backed by ten or twelve more, beat the sentry on his back, rushed in, and made themselves masters of the guard and their arms, being followed by many more. However, it appears by Lind's evidence, that they were moderate enough in the use of power, at least at that juncture; for when he came, they very civilly desired him to be gone, for they wanted nothing with him, and warned him of his danger if he offered to resist."

Sutherland, the serjeant, agreed with Hunter in the main, only that Hunter's words to the sentry were, 'The mob is up, 'I advise you to give them good words, for 'they will have their will.' He said, "That indeed captain Lind desired him to take care of the guard; but that availed little, for not one of the soldiers would have minded him; nay, they were so intimidated by what had happened to those under Porteous's command, that he believed, except himself, scarce any of them would have obeyed the captain himself had he staid. Yet all agreed, that had the captain been present and assembled all the soldiers, who for the most part lived within a stone's-throw of the guard-house, they might have easily prevented the mob's taking possession of the guard-house. The captain said in his defence, that he had orders from the Provost to return the first time, that he thought no messenger so proper as himself."

It was proved by the evidence of Mr. Baird, and several others, that the magistrates endeavoured to raise the trained-bands, or militia of the city; for which purpose they dispatched one Haliburton, their commandant, to Mr. Rollo, at whose house were the books which contained the names and places of abode of every captain of a company; but when he came there he was denied access by Mr. Rollo's wife, who desired him to be gone. They

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then proposed to ring the alarm bell, but found the mob had taken the precaution to secure the tower in which it hangs.

Hislop the store-keeper, and several others, proved, "That the magistrates next sent to the magazine for arms, and that the mob had likewise secured that."

It had been much insisted upon by the counsel for the Bill, that the Provost ought to have put a guard of men in the Justiciary or Tolbooth-room, which are, it seems, but a short distance from one another; but it appeared by all the evidence, that in the situation affairs were then in it was quite impracticable.

Walker, the town-officer, whom the mob had so pelted that he was obliged to throw off his livery-coat, declared, "He was by when they murdered him, and that one more forward than the rest was checked by the others and desired to wait for orders; that he thereupon quitted the end of the rope, which by this time being about Porteous's neck, he was ready to have hoisted up, and went about to another, who very composedly gave him orders, and that he returned and drew the rope up, which hanged Porteous."

It farther appeared, That the magistrates were all this time getting what information they could by sending people who might mix in the mob, and endeavour to know some of their faces, but all in vain; only one man returned, who said he knew one person there. The magistrates desired him to name him, which it seems he did, and was desired to be in readiness to give in what evidence he could against him, when called upon.

Mr. Lindsay said, "That he returned about five in the morning, and with several who had been with the Provost all night, went to the Grass-market, where the body of Porteous yet hung, and several people, to the number of twenty or thirty, as they thought, in a body, standing about: most of the evidence seemed to think those were some of the rioters, and said, they advised them to depart. One was seized upon, but besides that they could make nothing of him; they had no prison in which they could confine him, so thought it the most prudent method to dismiss him: for being but a few of themselves, and the mob seeming resolute, they had no reason to doubt but they would rescue him; and perhaps, as they had committed such outrages already, would not stick at greater." The King's council laid great hold of this circumstance to prove the negligence both of the Provost and of the town; but it was observed by Mr. Murray, council for the Provost, that he was not then present, consequently admitting it to be a neglect, not answerable for it.—He farther declared, "That when he returned from major-general Moyle's, the mob was pouring in vast shoals out of the town into the country, and that he did not remember any one face of the many hundreds he met with, though he had lived and borne the highest offices of the city for several years."

Another of the witnesses declared, "That being at Dalkeith, a village about five miles from Edinburgh, 10 or 12 days before the riot, he there heard a report that a conspiracy to murder Porteous, if reprieved, was formed by the friends of one Ballantine, a youth of that town, who went thence to see Wilson's execution, and was one of them killed by Porteous, but that nobody believed it."

An Act made in the 9th of queen Mary of Scotland, 1563, by which it was enacted, that all citizens who assembled to suppress any riot within the town of Edinburgh, without authority from the Provost, incurred the pains of death, was produced and admitted an evidence. Another Act of James II. of Scotland, 1451, by which no corporation was liable to punishment; for the Provost or any of the magistrates fault was likewise admitted an evidence. The Articles of the Union were likewise insisted on, by which the privileges of the boroughs are to remain inviolable; and Mr. Hamilton, counsel for the town, offered in evidence an extract of the Minutes and Debates of the session of parliament in Scotland, in which the Articles anent the privileges of royal boroughs is settled, whereby it appears that upon a motion made to submit them to the alterations of a British parliament, a debate arose, and it was resolved in the negative; but this was refused as evidence.

It was proved against the city, that Porteous was insulted, going to his trial, by the mob; this was confirmed by the testimony of my Lord Advocate, who said he believed, that had it not been for the guard he would have been torn in pieces between the Tolbooth and the Justiciary Room, though not forty paces distant from one another. The fact was admitted, but evidence was given that the mob, who insulted Porteous, had no interest in the corporation who was to suffer by the present Bill, being either the lowest dregs of the inha-

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bitants, or people from the country whose relations had been killed on the day of Wilson's execution. It was likewise proved that almost all those who were killed were people from the country.

Mr. Lindsay, Mr. Young, and several more were examined to prove the usefulness of the town guard, particularly in two respects, viz. that of extinguishing fires and quelling former mobs. It was plainly made out, that it was in a city so populous, and so close built, where forty or fifty families live under one roof, as in Edinburgh, it would be impossible to quench fires, or to preserve the goods during fires, without such an armed force.

The Lord Advocate, and Patrick Lindsay, were asked, when upon examination, Whether, if the town guard had been under arms and not surprised, they believed the guard would have been able to have quelled the mob? they answered they did, and most of the evidence declared, that they believed, had the guard been properly armed and commanded, the rioters would not have attempted what they did.

As to what related to taking away the Nether-Bow-Gate, it was proved unanimously, that the said gate was of absolute consequence to collecting the city revenue, and that it prevented smuggling. One of the honourable gentlemen above mentioned said, that he did not think its being demolished would answer the intentions of the Bill, because it was easy for a small body to defend the pass where it was built, against a much larger, even though the gate was open. Several evidences were produced, particularly the Act of Parliament by which the city collected two pennies Scots, upon every Scots pint of ale vended within the town, to prove the loyalty of the citizens on former occasions, especially in 1715, when they raised some companies, and by their zeal and conduct prevented the surprising the Castle by the rebels.

Mr. Irvine, the town clerk, said, they had during that period, and upon other occasions, manifested their loyalty much to the prejudice of their revenue, which was scarce able to defray the necessary expence of their town.

Mr. Young declared, That he found a bond for some hundred of Scots marks, granted by the city of Edinburgh to one Wightman, who was obliged to advance that money for the payment of the minister's salary, the revenue of the town having been so exhausted; and all agreed in its having the most sincere attachment to the Protestant succession in the present royal family.

We have given the sum of this Examination, because without that the following Speeches would not be intelligible. The hearing of counsel for and against the Bill being ended, and the counsel withdrawn, Mr. Speaker opened the Bill; whereupon a motion was made by Mr. Attorney General for its being committed, in which he was seconded by Mr. Solicitor General, but it being late, the consideration of the said motion was adjourned till the next morning.

June 9. The said motion was re-assumed; upon which the following debate arose.

Mr. *Attorney General* (Mr. Dudley Ryder) rose and said:

Sir; The Bill now before us, I will venture to say, is a Bill that at this juncture must greatly contribute to the peace and tranquillity of this nation. I am sorry to say it, but it is too visible that the spirit of disaffection and riot seems to have gone abroad; and if a timely and an effectual stop is not put to it by a vigorous interposition of the legislature, no gentleman can take it upon him to say where it may stop. It has, in the chief city of our part of the United Kingdom, already left but too many melancholy proofs of its fatal tendency; and how soon it may communicate itself to the other, I tremble to imagine.

The other House, Sir, by the seasonable inquiry, has already set us the example, in what manner we ought to treat, and in what manner we ought to punish such unheard-of insolence and barbarity, as the action which gave rise to this Bill. I hope, Sir, we never shall be upbraided with being cold in seconding their zeal; I hope, Sir, that it never shall be laid to the charge of a British House of Commons, that it has been remiss in punishing an audacious insult upon all law and majesty, while the House of Peers has appeared zealous and forward in vindicating both.

It is true the charge against the Provost and citizens of Edinburgh consists chiefly in their neglecting to prevent the tumult before it happened; in their neglecting to suppress it, or take proper measures for that purpose after it had happened, and in their neglecting to discover, apprehend, and secure those who were guilty of that audacious riot and cruel murder. But this charge, which is the

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foundation of the Bill, is not to be considered as negligence only; for he who does not prevent a crime which he might and ought to have prevented, has always in law been looked upon as some way guilty of that very crime; therefore if it should appear that the magistrates and citizens of Edinburgh might and ought to have prevented this tumult, or rather insurrection, or that they might and ought to have suppressed it, or that they might and ought to have discovered, apprehended, and secured the rioters and murderers; if it should appear that they neglected any of those measures which were obvious for accomplishing either of those ends, the neglect must then be looked on as a sort of wilful neglect, and consequently they must be looked on as guilty, in some measure, of all those crimes which were committed. And so every gentleman who considers their case in this light, the punishment proposed by this Bill must appear merciful as well as mild.

Mr. *Solicitor General* (Mr. Strange) rose and spoke as follows:

Sir; I had yesterday the honour to second the motion made by the honourable gentleman who spoke last, and must beg your attention as to some points arising from the evidence that has been laid before this House.

I have the pleasure, Sir, to observe, that every one who has occasion to speak upon this head, expresses the utmost detestation for the actors of what was not only an insult upon majesty, but an open rebellion against justice, nay against mercy itself. It has, I think, been pretty universally allowed, that it is out of the reach of common law to punish the neglect of duty in the Lord Provost and citizens of Edinburgh, it being attended with some peculiar circumstances; and as I believe every gentleman in this House is of opinion, that such a neglect ought to be punished, I may venture to affirm, that there was no other way of doing it but in the method that has been taken. The objection that seems to have the greatest weight as to this method, is the hardship of a man suffering by an act *ex post facto*; but the supposing any such hardship, is to question the justice and wisdom of former parliaments, who have ever proceeded in this manner upon misdemeanors, which were out of the reach of the common forms of laws. Great pains have been taken to find a difference betwixt the misdemeanors for which other cities were punished by this House, and the behaviour of the city of Edinburgh in the late riot. But, Sir, though two cases of this nature cannot be parallel to each other in every circumstance, every case of a city losing its privileges by the censure of parliament, amounts to a proof that there have been precedents of this nature, eight or nine of which have been produced by the gentleman who spoke against the Bill. I am far from believing that the Provost or magistrates of Edinburgh were actually aiding to the rioters when the unfortunate Porteous was murdered, for if they had, the punishment would have been much more severe than what is implied in the present Bill. And to shew that I am willing to allow all that can be reasonably expected in favour of the Lord Provost and city of Edinburgh, I shall premise two or three things. The first is, that I lay no stress upon the circumstances preceding the murder of Porteous, nor do I think that the town of Edinburgh shewed any personal rancour to that unfortunate man in prosecuting him at their expence. It was no more, Sir, than what their duty required of them, as he was a servant of their own, and the crime he committed was done while he was cloathed with their authority, and in effect committed against them: nor am I, Sir, of opinion, that they discovered any malice, but rather favour, in taking away his pension, and leaving him half a guinea a week for his subsistence while in prison, since it comes out in evidence that they did not put it in their own pockets, but gave it to the other two captains who performed his duty; nor could the magistrates have been blamed had they deprived him of the whole. I farther admit, that the Provost behaved both circumspectly and impartially, by leaving him to the judgment of another court, since by his own authority he might have tried and condemned him in his own.

The counsel for the Provost has done well in considering his behaviour at three different periods of time, viz. before, during, and after the murder of Porteous. I shall likewise view it through the said periods, and make such observations on each, as I hope will fully prove the expediency and justice of the present Bill. As for the first, it appears that the Provost had positive intelligence of a design formed to take Porteous out of the hands of justice, and to murder him; this was

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told him by captain Lin; but what did the Provost do on this occasion? He desired Lin to enquire into the grounds of such a report, which indeed was doing nothing at all; for he could not have employed a more improper person than Lin, who justly might be supposed to have been dreaded by the conspirators on account of his office, and who, unless he had been in concert with them, could never have come at the knowledge of the design; however, it seems the report increased to such a degree, that Lin thought it his duty again to acquaint the Provost of it, and to desire the necessary orders to prevent it; but such was the Provost's negligence and indolence, that he only laughed at him, and told him, that there was no foundation for such a report. Upon which Lin had this remarkable expression, 'I 'wish you find it to be so.'

I am well aware, Sir, of what has been said in behalf of the Provost, that the report was fixed for the Wednesday, not the Tuesday. I shall admit that to be fact, but cannot help concluding that the necessary dispositions ought to have been made by the Provost to prevent it on the Wednesday; how does it appear that any orders for this purpose were given by the Provost? When Lin came for his orders the night before, he got none, though he waited long at the door of the house where the Provost and town-council were assembled, sent in his name to acquaint the Provost he was there, and told several of the members who went into the council for what end he was waiting there. What is still more inexcusable and unaccountable, is, that it appears the city guard at that time was not provided with one flask of powder, or one pound of ball, though it had been always the custom to furnish them with both the night before, when it was suspected any insurrection would happen the next day.

If we can suppose that the Provost had been rendered more cautious with respect to the quelling of tumults by an armed force, from the melancholy effect that Porteous's conduct had produced; yet, Sir, there was another method which might have easily and effectually been used to prevent the designs of the conspirators, and to secure the unfortunate criminal from their rage, and a method too, so obvious, that it suggested itself to the very meanest capacities. This was, to have sent Porteous to the castle. What the Provost's own evidence (Walker) has declared, makes it appear, that it was a current opinion, even among the mob themselves, that this measure would have been taken; for when he (Walker) heard the drum of the rioters, having asked his maid, 'why the drum was beating at that 'unusual hour,' she readily answered, 'I 'fancy they are carrying captain Porteous 'to the castle.'

I believe, indeed, the original design of the rioters was to have hanged him upon the Wednesday; but it appears by the evidence given in, that this resolution was changed soon after the reprieve came down, and the report currently went for the Tuesday, nay the report was so frequent for the Tuesday, that it is contrary to the rules of common sense to suppose the Provost could have been ignorant of it; but, as I hinted before, how did it appear that he took the necessary precautions against it, even supposing it to have been fixed for the Wednesday, and why did he not act in the same manner upon the Tuesday before, as he had done the night before the execution of Wilson, which was to give orders for all the three companies to mount guard, to let them have ammunition, and to call in the assistance of the regular forces, which by their readiness in assisting him at the execution of Wilson, he had no reason to believe would have been refused him?

I conceive, Sir, that I have said enough to prove the notorious neglect of duty in the Provost during the first period of his behaviour, and how does it appear that he behaved better during the second, viz. the time of the riot? An act of parliament has been urged by the gentlemen counsel for the town of Edinburgh, against the Bill, which if it makes any thing in favour of the citizens, throws the whole blame upon the Provost. It is an Act, Sir, made in queen Mary of Scotland's time, and is still in force; it is intituled 'An Act against staunching Riots 'and Tumultuous Assemblies within the 'City of Edinburgh,' by which it is made felony in a citizen of Edinburgh to assist in suppressing any riot therein without the Provost's orders. How does it appear, Sir, that the Provost gave any orders? Does it appear, that upon the repeated informations that he had of a tumult being to happen, he issued out any commands to his citizens to be upon their guard, and to be in readiness to suppress any such tumult? It is still more

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extraordinary that he neglected the common method prescribed by law, which no one, especially one of his station, could be, or at least ought to be ignorant of, I mean, that of reading the act against riots, of which he was even unprovided of a copy. When, with a good deal of difficulty, a copy of that act was procured, he made no attempt to read it, as he might have done, in the passage betwixt the door of the tavern where he was, and the street where the rioters were assembled; and I think, Sir, it appears very plain from the evidence, that that passage was clear. Another inexcusable omission that he was guilty of, was, that when he sent away for the assistance of the King's forces, he neglected to write a letter, as he easily might have done, and as he had done upon former occasions, without which he had no reason to believe the troops would have marched to his assistance. It is true, Sir, that it was not to be expected, that a letter full of form and compliment could have been written at such a juncture, but sure, he might have written two lines, though it had been no more than this; 'Sir, We 'are in the utmost danger, march your 'troops to our assistance as soon as possi-'ble.' This, Sir, had been the natural and proper stile, and would have better served to let general Moyle know the danger he was in, than a letter in any other terms. I must further observe, that the honourable gentleman he sent being no magistrate, it would have been a very imprudent step for general Moyle to have come to his assistance, upon a bare verbal message. For let me suppose the general had marched his troops upon the message that was sent him; he finds the gates shut against him; he forces them open; the mob resists; he gives orders to fire amongst them; several are killed; and those that are killed are soon found to have been innocent spectators: Moyle is prosecuted, he is asked, why did you so and so? had you an order in writing from the Provost for entering the town? No! Had you a verbal order from him? No! Had you an order either verbal or in writing from any other magistrate? No! Did you not know that without such orders the King's troops are not to enter the city? Yes! What the fate of general Moyle, by the Scotch law, would have been in such a case, may be guessed by that of Porteous. One observation more, Sir, I would make, but I do it not with a design of throwing out any reflection. When the honourable member, who was the messenger to general Moyle, went to him, why he did not propose to get the warrant, which the general by his instructions from his superiors required, from my lord Newhall, whose house it seems was two miles nearer than that of my lord justice clerk, to whom he applied.

I am far from asserting, Sir, that the Lord Provost, during the time of the riot, was quite inactive, and made no attempt whatever to quell it; but I think he might and ought to have made more frequent and more vigorous attempts. We see by one evidence that it had been no hard matter to have driven the conspirators from before the doors of the Justice-court, where it appears, that if a very few men with fire-arms had been posted, they might easily have forced the mob from about the prison doors; since that evidence, supported only by other two, actually wrenched the weapons out of the hands of some of the conspirators, and drove them to some distance. By what I have observed, Sir, I hope it appears, that the Provost has justly incurred the censure of this House by his behaviour during the second period mentioned. I shall now proceed to make a very few observations upon his behaviour during the third period. It has been proved, Sir, the next morning after the murder of Porteous was committed, many of the rioters were seen standing near the body of Porteous, by several of the city council, among whom was an honourable member of this House, who repaired to the spot. But it has not been proved that any attempt was made to seize any of them, except one, who after a very cursory examination was dismissed, because, forsooth, they had no prison to put him into. Had they not the Cannongate prison, Sir, where the King's forces kept guard, and where he would have been secure? or can it be supposed that if the Provost had been in earnest to have secured him, that he who commanded in the castle would have refused to have received him as a prisoner? or that the Provost could have been at a loss for a house, in which he might have secured him till the city prison was repaired? It is true, that near two hundred persons are pretended to have been examined, but can any good reason be given why the examinations of not above four or five of them were reduced to writing? It has been urged in defence of the Provost, that he

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was so much in earnest to discover the rioters, that he sent several to mix amongst the mob, that some of the conspirators might be discovered. But when one of those messengers from the Provost came back to the tavern, and said he knew one of them, and offered to tell his name, he was charged to hold his peace till a proper time, when he should be examined: but, Sir, I must beg leave to observe 'that proper time' never yet came. Great stress, Sir, has been laid upon the prevarication of some of the witnesses for the crown, and many endeavours used to prove the bad character of one of them, but it is remarkable, that one of the principal witnesses against the Bill has prevaricated much more strongly than any of those for it. The witness I mean is Walker, the city officer, who said, that he was sent by the Provost to wait upon the solicitor-general for Scotland, and to receive his orders, which he accordingly did. Being asked, how long it was after the riot happened, that he received such an order from the Provost; he answered, within a day, or at most two, after the riot. Now, Sir, it appears by the solicitor, who is an honourable member of this House, that he (the solicitor) came not to town till ten or twelve days after the riot.

Having thus gone through the behaviour of the Provost during the three periods I proposed, I shall be very short in what I have to say with respect to the town of Edinburgh. It has been insisted upon by the gentlemen counsel against the Bill, that not one citizen of Edinburgh could be proved to be assisting in the riot. This, Sir, to me is one of the strongest arguments that they were assisting. For such a proof could only come out by the other towns-men, who being equally concerned found a mutual interest in concealing one another. It has been said, that it appears from the evidence of the honourable person who was sent to general Moyle, that it was the people in the country who were principally concerned, since, to use that gentleman's expression, when he returned from the general, he met the rioters pouring in shoals out of the city. Pray, Sir, can it be supposed that if the rioters had been citizens, they would have been so mad as to continue in the city when the riot was but just over, and where it had been easy to have discovered them. Great complaints have been made of the hardships imposed upon the citizens of Edinburgh by the present bill, as it takes away their guard, and consequently deprives them of their watch. But I cannot see any hardship in this at all, because the citizens have only enjoyed that guard since the Revolution, when it was granted them in place of watching and warding, and I know not what should hinder them from returning to the same custom again. The gentlemen on the other side have likewise insisted much upon the hardships of proceeding against the Provost and city of Edinburgh in this manner. There are only three methods, Sir, by which a parliamentary prosecution can be or hath been carried on. One, which has been long out of use, I hope never shall be revived, the second is by impeachment, and the third is by bill, as in the present case. The two last are the only methods that could have been used against the Provost and citizens of Edinburgh. Had they been proceeded against by an impeachment, they could have had no chance to be acquitted but one, which is the judgment of the House of Peers, the law having put it out of the King's power to interpose where the Commons are the prosecutors. But by the present method, if the party proceeded against is censured by the Peers, he has the chance of being acquitted by the Commons, and if condemned by both, he has still a further chance that the King will not pass the Bill. For these reasons, I am heartily for the commitment of this Bill.

Mr. *Duncan Forbes*, spoke thus:

Sir;—As the post I have the honour to enjoy under his Majesty, obliged me to have some concern, both in the prosecution of the unfortunate Porteous, and in taking the examinations of the persons supposed to be concerned in his barbarous murder, I think it my duty to give my opinion in relation to the Bill now depending before this House.

I cannot believe, Sir, that any gentleman who has the honour to sit in this House, will question my having the most sincere detestation of the crime (whose consequences Heaven avert!) and the greatest abhorrence of the actors of it. And, Sir, could it be proved that the magistrates and city of Edinburgh omitted the least measure that could have been taken to prevent the perpetration of it, I would be as forward as any gentleman in this House to give my vote for passing the present bill into a law; nay, were the alle-

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gations in the Bill proved, I think them of so heinous a nature, that I would willingly give up whatever could be said in favour of the city of Edinburgh from any preceding acts, nay from whatever may be urged even from an article of so solemn a treaty as the Union itself. But, Sir, before I enter into the point in question, I must declare to this august assembly, that whatever I speak in defence of the Provost and citizens of Edinburgh does not proceed from any national prejudices, for I thank God I am as free of them as any man; and I am, persuaded from the candour, patience, and impartiality, which this House has shewn throughout all the course of this examination, every gentleman here is of the same sentiments.

There are two or three things, Sir, to which I beg the attention of this House, because they are circumstances upon which I lay a good deal of weight; and they may not a little influence gentlemen in the judgment they form of the justice or injustice of the present Bill. The citizens of Edinburgh, Sir, are divided into two classes; one of which composes the corporation, pays scot and lot, and has the only right to vote in chusing their magistrates and representatives in parliament; the other class, Sir, consists of the very dregs of the people, who have not the least interest in any of these points; they easily embrace, and are much pleased with, every opportunity of being tumultuous. Should the present bill pass into a law, it would be directly formed to favour the latter, who were the authors of the murder of Porteous, in case he was murdered by any who lived within the jurisdiction of the city of Edinburgh, and to censure the former, who, it appears from the evidence given at this bar, has an interest in quelling every riot of the like nature with that which is now under your consideration, and who actually, as I hope to shew more at length by and bye, did use their utmost endeavours to quell the riot which gives rise to the present Bill.

There is another point, Sir, upon which I lay a good deal of stress, and which may not a little influence the resolutions of this House; and that is, the form in which the city of Edinburgh is built: were I capable to give you any idea of it by describing it, I am persuaded every gentleman here would think it a circumstance of great importance in the present case. The city of Edinburgh, Sir, consists of one principal street, with which a great number of lanes (which you have heard called in the evidence, closes, and wynds) communicate. As my business obliges me to be at Edinburgh for at least six months every year, I had many opportunities of making observations, which now convince me of the hardships that would attend the passing of the present bill into a law. Upon this street, Sir, twice every day there are seldom fewer than 1,500 people walking; and towards the middle of it the guard-house, which by the present bill is to be demolished, stands; the soldiers, by this situation of their guard-house, are always ready upon the first notice of any commotion (as commotions must frequently happen in such a concourse of people) to interpose; and, Sir, I have frequently seen where they have been the means of preventing a good deal of mischief. It has been mentioned, Sir, that citizens may return to their old custom of watching and warding, when this guard is taken away; but that, Sir, would be putting them to a very great hardship. The nature of that watch and ward was, that each burgher, for perhaps 5 or 6 days in a month, should mount guard: this was found so inconvenient by its being attended with a great loss to their private business, that upon a representation made to the government, of their services at the Revolution, the present guard was granted by the parliament, and confirmed to them by the glorious king William.

One of the first incidents that happened after I came to act any part upon the stage of life, was a proof to me of the service this guard may be upon some occasions. And I shall the rather mention it, because I hope it will serve to shew how early I endeavoured to shake off those foolish but fatal prejudices, that reigned among the subjects of that part of the United Kingdom against the English. One Green, a master of an English vessel, having been forced by stress of weather into the harbour of Leith, a report was spread that he was a pirate; upon which he and his officers were taken up, tried, and upon the evidence of some of his crew, no two of which concurred in their evidence, condemned, for murdering one Drummond, and seizing his ship. I was present at the whole trial, and was sensible with what partiality and injustice it was carried on: the unfortunate men seemed to me to have no other crime but that of being Englishmen, and of being obliged to put into Scotland at a time when great animosities were subsisting in

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that kingdom on account of some proceedings against the natives of Scotland, which were judged there to be unjust and harsh. For those, and no other crimes, this poor unfortunate gentleman, and the officers of his ship, were to suffer an ignominious death. The populace in the mean time began to have a surmise that the privy council, which sat that time at Edinburgh, intended to reprieve the criminals. As every surmise to an enraged mob is a proof, they attacked the lord-chancellor, beat his chair in pieces, and obliged him to fly for his life; and had it not been for the city guard, who rescued him with their bayonets upon the muzzles of their guns, they had torn him to pieces. They afterwards went and knocked at the door of the house where the privy council was sitting, bawling out for the blood of these persons; and the privy council, in a mean and scandalous manner, gratified them by signing an order for their execution that very day. I was so struck with the horror of the fact, that I put myself in deep mourning, and with the danger of my life attended the innocent but unfortunate men to the scaffold, where they died with the most affecting protestations of their innocence. I did not stop here; for I carried the head of captain Green to the grave; and in a few months after letters came from the captain for whose murder, and from the very ship for whose capture the unfortunate persons suffered, informing their friends that they were all safe. These letters, Sir, were of a date much later than the time when the crimes, for which Green was condemned, were pretended to be perpetrated.

This instance, Sir, I hope, will serve to shew how headstrong mobs have formerly been in that country, and how useful the city guard has been in quelling them. Allow me now, Sir, to consider the conduct of the Lord Provost of Edinburgh, during that unparalleled insult upon all laws and government, which happened when the unfortunate Porteous was murdered. And indeed, Sir, I own I think it comes pretty plain out in the evidence, that he behaved not only with prudence but zeal, nay with a courage which could scarce be expected in a much younger and a much more active man. No evidence of any credit, Sir, has yet pretended to say, that the Lord Provost or magistrates of Edinburgh had information of this riot's being to happen on the day on which it did happen. It is true, one Baily is so rash as to own that he drank with some of the conspirators, who defended the justice of the murder, some days before it was perpetrated, and that he himself was present during the riot. After an acknowledgment of this kind, I leave it to this House to judge what credit ought to be given to a man who in some sense owns his being accessory to the murder himself. As to Mr. Dun, the other evidence that spoke the fullest to this point, the House has already heard too much of his character, from gentlemen of unquestioned probity and honour, for me to make any remarks upon what he has advanced. It is true, there is one evidence of an undoubted character (I mean captain Lin), who seems to make it suspected that the Lord Provost had information given him of the riot's being to happen on the Wednesday: but, Sir, does it appear by that gentleman's evidence that, if he did believe it himself, he acquainted the Provost or any of the town council of his grounds of belief? he says he came and acquainted the Lord Provost that such a report was current; the Lord Provost asked him, if he believed such an attempt would be made? of whom he had heard the report? and if it met with any credit among the men of sense he conversed with? his answers to these questions were, that if such an attempt was made, he did not believe it would be before the day fixed for the execution of Porteous; and that the report was spread only among women and children, and entertained by fools. And, Sir, he gave a very good reason before this House, why he did not believe it; which was, that he judged it impracticable for the mob to undertake and to succeed in any such attempt. I must further observe, with respect to the Lord Provost, that he was so cautious and so unwilling to let slip any opportunity of receiving information in this affair, that he caused captain Lin to walk into the room where the other gentlemen in company were, and to repeat what he had said; asking at the same time of these other gentlemen (one of whom is a worthy member of this House) if they had heard of any such report? who all agreed that they had heard nothing of it, except from persons of so little authority and credit, that they did not think it worth while to raise any alarm about it. I cannot but observe, likewise, that the captain's own conduct shewed how little credit he thought was to be given to the report,

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since he left the town on the Friday afternoon, and did not return till the Monday following, which was the day before the riot happened. But, Sir, to put the zeal and care of the Lord Provost beyond the possibility of being questioned; he did not slight this information, groundless as it seemed, but called a council, where it was resolved to have all the three companies of the city guard upon duty, and that the officers of the trained bands should be in readiness upon the Wednesday; for I must again observe, Sir, that there has not the least circumstance come out in evidence to prove that the report went of the riot being to happen upon the Tuesday, the day on which it actually happened. The objection, Sir, that is made with respect to the city guard not being provided with powder or shot, if we consider the evidence upon that head, can never affect the Lord Provost. It appears that the officer who commanded the guard always applied to the city treasurer when his men wanted powder and shot, who gave in order to the storekeeper for what ammunition was required. If no such intimation, Sir, was made to the Lord Provost or to the city treasurer; if the captain, whose business it was, did not make the usual application in order to have his men supplied with ammunition, I hope no gentleman in this House will impute it to the Lord Provost, who is no military man, and cannot be supposed to be acquainted with these matters, that they were not supplied. In short, Sir, I cannot see the least grounds for founding the present bill upon any circumstance of the Lord Provost's behaviour before the riot happened. It appears to me, Sir, that he used all the precautions that any wise man could have used upon such an occasion, and that he committed no other blunder in conduct, except that of not acting contrary to the advice and the judgment of every man about him, who were all of opinion, that if there was any foundation for the report of a riot's being to happen before the Wednesday, which was the day appointed by the judges of Porteous for his execution, that to make any appearance of providing against the riot before the said day, was the readiest way to occasion a riot. And allow me, Sir, to say, the thing speaks for itself; the rebels had no certainty of any reprieve having come to the unfortunate person; so that it was fairly to be presumed, they would wait to see if they could obtain in the course of law what they otherwise were resolved to obtain by violence.

As to the Lord Provost's behaviour during the melancholy time when that barbarous riot happened, I think, Sir, it has been admitted by the learned gentlemen who spoke for the commitment of this bill, that he had used several efforts to quell it, but might have used more and stronger; it has likewise been said, Sir, that he neglected the proper means of suppressing it. How he could have used stronger efforts than he did use, is, Sir, what I cannot easily apprehend. Has it not appeared from the evidence given at the bar of this House, that he no sooner was informed of the appearance of a disorder, than he dispatched away the captain of the city guard in order that he might draw out his men, that he (the Lord Provost) might put himself at their head and march against the rebels? Has it not appeared, Sir, that he was as good as his word, that he followed the captain with as much, nay more expedition than could have been expected from his age and infirmities? He met the captain returning from the guard-house, from whence the violence of the rioters had forced him. The hopes of suppressing them by means of the guard having failed, the most natural and the most probable method was to apply for assistance from the king's troops. This dangerous commission was readily accepted of by an honourable member of this House, who executed it with great difficulty and hazard. It has been objected, Sir, that no letter was written requiring general Moyle to march his troops into the city, and that without such a letter there was no reason to expect that he would come to the assistance of the magistrates; but, Sir, it appears there was not time even to write a letter, though it had been as short as was proposed by a learned gentleman; and the honourable gentleman who was dispatched from the street (for I must observe that he went from the street, not the tavern) has declared in evidence, that though such a letter had been written he would not have carried it, because if he had been seized upon by the rioters, and if such a letter had been found about him, there was no room to doubt but that they would have treated him with as little ceremony as they afterwards shewed to Porteous.

In the mean time, Sir, it seems, the violence of the mob rose to such a height, that there was a necessity for the magis-

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trates to take some other measures for the common safety. It was proposed that the alarm bell should be rung, in order to bring the citizens to the relief of their magistrates: but such, Sir, was the foresight of the rebels, that they had seized the tower in which this bell hung, so that there was no possibility of getting at it. It was then proposed, Sir, to send the proper officer to raise the captains and heads of the trained bands; but this expedient failed likewise; you have heard by what means it did fail, and that neither the Lord Provost, nor any other magistrate, was to blame.

The Lord Provost, that nothing on his part might be omitted, likewise made another attempt, in person, to suppress the rioters. And it was, Sir, an attempt so hazardous, that there are very few civil magistrates but would have thought they had done their duties very well, though they had not gone so far. The numbers that accompanied the Lord Provost, Sir, were much disproportioned to that of the rebels; the rebels were armed, those with the Lord Provost without arms; yet all this did not hinder the Lord Provost from advancing against them, till several of his company were wounded with stones, till even fire-arms were levelled at them, and till the bravest and boldest in the company thought it prudent to retreat, because to have done otherwise would have been for the magistrates to have exposed both their persons and authority to the insults of a barbarous and an enraged multitude. The Lord Provost at last, Sir, did retreat, and the rebels perpetrated their bloody resolutions. Now, Sir, if we take a view of the Provost's whole conduct upon this melancholy occasion, I would gladly know of any gentleman, who has heard the examinations of the evidence, if it appears that the Lord Provost omitted any one measure that was proposed to him for the suppression of this unhappy riot.

As to his behaviour after the riot was over, Sir, I have heard of only one positive circumstance that has been advanced against it, which is, the not imprisoning the man who was seized in the Grass-market the next day. But how, Sir, can that circumstance affect the Lord Provost, who appears never once to have seen or to have heard of that man, till he was dismissed? And, indeed, I think the gentlemen who seized that man, had they pretended to have put him in prison, would have bid fair to have renewed the tumult; since, as you have heard, the rebels were yet upon the spot in great numbers, and with a shew of resolution; this, Sir, the rioter who was seized seems to have been well aware of; otherwise it can never be supposed he would have been so mad as to remain upon the very spot of execution, and to allow himself tamely to be seized.

The honourable gentleman, Sir, a worthy member of this House, who is my colleague in the post I have the honour to fill in that country, is a person whose zeal for his Majesty's service can be as little questioned as his abilities, which I am sure are very great; that honourable gentleman, Sir, I say, can witness how indefatigable, how zealous, nay, I may say, how keen the Lord Provost was in promoting whatever could contribute to discovering the conspirators, so that if they were not discovered, it was not owing to him but to us; and if this House is resolved to pass the present Bill into a law, on account of any neglect that happened upon that occasion, it is but just that you should strike his name out of the Bill, and clap in the names of a couple of your own members.

Thus, Sir, I have given my opinion with respect to the insufficiency of the evidence for passing the present Bill into a law, and I have done it in the sincerity of heart; for what motive, Sir, can I have in what I have spoken, but the discharge of my duty as a member of this House? It is more than probable, Sir, that I shall never trouble you again with my sentiments upon this or any other subject, but my conscience would ever afterwards have accused me, if I had quitted my seat here, before I had given my reasons why I think the present Bill should not be committed.

General *Wade* spoke to this effect:

I am very sorry, Sir, that I should differ from my honourable and learned friend who spoke last; I think it is the first time I ever had occasion to do so, and I hope it shall be the last. I was not in Scotland, Sir, when the murder of captain Porteous happened; but when I went down to that country, I found my honourable and learned friend, and his colleague, who is likewise an honourable member of this House, employed in taking examinations and using proper means for detecting the inhuman actors of it; and indeed I should be unjust to them both, if

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I did not own that they showed as hearty a zeal in their proceedings, as the best friend to his Majesty and the present government could have wished for. But I hope both these honourable and learned gentlemen will forgive me, if I mention one circumstance, which, though very probably it has escaped the memory of my worthy friend, yet it is of great weight with me, and leaves me no room to doubt that the conspirators had originally formed the design of murdering captain Porteous upon the Tuesday; that this design was openly talked of; and that the citizens and inhabitants of Edinburgh were the actual authors of the murder. My authority for this, Sir, is the more unquestionable, as it is founded on an authentic copy of an examination upon oath enclosed within a letter to me, which I have now in my hand. The letter was sent, and the examination taken by one of the honourable and learned gentlemen I have already mentioned. The deponent, Sir, was servant to one Collin Alison, Wright, in Edinburgh, and makes oath, that on the Thursday or Friday, before the 6th of September last, one ——— came into his master's shop, where and while he was at work, and informed both him and his fellow servant, that Tuesday next was the day appointed for revenging innocent blood, and that he hoped they, the deponent and his said fellow servant, would not fail to attend, and assist those who were to hang the bloody murderer Porteous, by ten of the clock at night, upon the signal given, which was to be, a ruff of a drum. This, Sir, I believe, will convince every gentleman here, that the design of murdering Porteous was no such mighty secret, as the gentlemen counsel against the Bill, and my honourable and learned friend, seem to believe. And indeed, Sir, if we take a view of the whole proceeding in that barbarous murder, we find nothing in it that looks like the precipitate measures of a giddy mob; no, they went coolly and regularly to work, and for my share, I never was witness to, or ever heard of any military disposition better laid down, or more resolutely executed, than their murderous plan was. Can we imagine, Sir, that the consultations of so numerous a mob could be a profound secret to all the citizens of Edinburgh? Or can we imagine that these consultations were held only by people in the country, who live at a distance from each other?

As my name has been mentioned with respect to the orders that Mr. Moyle had of me, it is natural to think that I should take some notice of the part which that gentleman acted, and the authority upon which he did act. That I may do this more distinctly, I think it will not be amiss if I tell a story (though I own I am a very bad story teller) which happened within my own knowledge, and while I served in Spain: A captain of an English man of war, whose ship was stationed in the bay of Lisbon, happened to receive undoubted advice that the Toulon and Mediterranean squadrons were to join, in which case the enemy would have taken Barcelona, and the interest of king Charles in Spain would have been ruined. The captain, without any warrant, set sail, and made such expedition, that he came up to sir George Rook, who was our admiral at that time in the Mediterranean, and discovered the design of the enemy. Sir George was immediately sensible of the importance of the advice and the successful expedition of the captain. You have done a very important piece of service, Sir, said sir George to the captain; you have saved the crown of Spain and the honour of your country by your diligence; but do not you know that you are this instant liable to be shot to death, for disobeying orders, by leaving your station! Take my advice, Sir, continued he, and come what will, another time, keep yourself close by your orders, and then you are safe.

Gentlemen can easily make the application of this story to the case of Mr. Moyle. He might indeed have prevented the riot, had he, upon the lame warrant he had to take such a step, broke down, or (as he owned upon examination he would have done) blown up with powder the city gate; but then he must have risqued his own life, even though he had succeeded. The aversion of the people of that country, Sir, to the gentlemen of the army is very great, and Mr. Moyle undoubtedly acted the wisest part, for there is no room to suppose he would have met with much favour from the witnesses, had his conduct been brought to a trial in a civil court. I am therefore of opinion that we shall do very well if we make an example of the city of Edinburgh, for the part her citizens acted in this inhuman affair, and I am apprehensive of no consequences arising from our resolution, but what are good.

Mr. *Shippen* spoke as follows:

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Sir; What was advanced by the two hon. and learned gentlemen, who spoke first in favour of this Bill, has absolutely determined me to oppose it, and all Bills of this nature. Indeed, I never was a friend to them, but I never saw so clearly into the bad consequences of their passing into laws. The arguments that have been made use of by the honourable and learned gentlemen who opened the debate, in my opinion, may equally affect any person be he ever so innocent, if he is obnoxious to the ministry. It is true, a Bill pretty much of the same nature was brought in during the reign of King William against sir John Fenwick; but the measures that gentleman and his friends took to screen them from justice, were such as left it impossible to bring any positive proof to condemn him, any other way than by a Bill *ex post facto*. And the parliament was at that time so sensible of this truth, and the unanswerable objections that might be brought against a Bill *ex post facto*, that when the counsel for sir John appeared at the bar of this House, they were ordered, from the chair, to proceed directly upon the facts as laid down in the Bill, and not to argue against the Bill as being *ex post facto*, the House having come to a previous resolution not to admit of any debate upon that point. But, Sir, as we have come to no such resolution, we are to be determined by the evidence that has been laid before us, and not by the secret views of any minister, or the unreasonable prejudices of any party.

Were I to be asked, Sir, by what extraordinary means it has happened that this session of parliament is protracted to so extraordinary a length, and upon so extraordinary an affair; as I am not in the secret, I own, Sir, I should be at a loss what to answer.

Should I be believed, Sir, if I should say that we were employed in incapacitating an old man (I think somebody called him an old woman), who I believe will think this part of his punishment rather a favour than a punishment, and who, by the character I have of him, was never designed by nature for overthrowing governments; and in punishing him in his natural capacity for what he acted in his civil? That we were all this time employed in depriving the citizens of Edinburgh, who did their utmost to quell the riot in question, of their guards and gates? This answer, Sir, would appear so ridiculous, that I am afraid I should be obliged to send the person who asked me to certain gentlemen on the other side of the chair, (I did not mean you, Sir, bowing to sir Robert Walpole) for further satisfaction.

We were told not long ago, Sir, that we must have a preventive Bill: what name the present Bill ought to go by, is what, indeed, I am at a loss to conceive. It is plainly calculated not to prevent future evils, but to punish past accidents, which it was impossible for the persons who are the subjects of the Bill to prevent. But to me, Sir, the plain and natural tendency of the Bill is, to turn the metropolis of a once independent kingdom into a military garrison. And, Sir, it has always been my opinion, that the execution of the laws, by a military force, is the surest system of a distressed administration, and a consumptive constitution.*

Mr. *Charles Areskine* spoke to the purport following:

Sir; What the honourable gentleman, who spoke last except one, has mentioned with respect to the extract of an examination taken by me and communicated to him, is certainly fact; but I must beg leave to say it appeared, that the person who was so mad as to make that information, was no inhabitant of the city of Edinburgh; and that it does not appear that information of it was given to any one of the magistrates, or members of the council, nay, or to any considerable person in the place; so that no farther use can be made of the circumstance produced by the honourable gentleman, but that there was a design formed by people without the city to execute the barbarous murder; for a single instance, Sir, never can be a proof, that the design of murdering Porteous on the Tuesday, was openly talked of in the city of Edinburgh; and unless that is proved, nothing is proved. It was never disputed but that there was a general report, that the mob designed to murder Porteous; but the question is, if that report fixed it for the Tuesday, or if the Provost, or any of the magistrates or citizens had any reason, from the information given to them, to make any greater preparation to prevent it than they actually did.

I cannot but observe, Sir, with respect to the terms in which the present Bill is conceived, that it is in the power of a

* The greater part of this important Debate is omitted by Chandler.

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secretary of state to make the censure inflicted upon the Lord Provost very heavy. It was insinuated, Sir, at the bar of this House, that the imprisonment of the Lord Provost would be but a state imprisonment; and how easy and gentle that is (said the gentleman) the late example of Kelly is an instance. I am far from suspecting that any of our secretaries of state would make a bad use of his power; but it is plain, that by this Bill, he may if he will. The Bill, Sir, bears, that the Lord Provost is to be imprisoned in any place of his Majesty's dominions in Great Britain for a year. The Orkney islands, Shetland, Guernsey, Jersey, are all in the dominions of Great Britain; and how uncomfortable would a banishment to any of these places be to a man of the Lord Provost's age and manner of life! There is a noted instance, Sir, of what I have now mentioned, in the English history, in King Charles I's time: three gentlemen of the different professions of the law, divinity, and physic, were sentenced by the Star Chamber to suffer a year's imprisonment, but before the year was expired, an order came from the secretary of state to confine the one to Jersey, the other to Guernsey, and the third to Scilly. This unseasonable severity, Sir, exasperated the minds of the people so much, that, if we may believe the historians of that time, nothing contributed more to the universal odium which the nation entertained afterwards against the King's measures. No nation, Sir, ever was more jealous of their liberties than the Scots always have been, or more susceptible of prejudices against their governors, whenever they think themselves oppressed; and as they, especially the citizens of Edinburgh, have still behaved dutifully to the present government, under which they have hitherto enjoyed their liberties, I think no gentleman, who is a friend to our present happy constitution, will be for the commitment of this bill.

Mr. Serjeant *Skinner* said:

Sir; I do not think my bare vote for the commitment of this Bill is enough to acquit me of my duty to his Majesty and my country, without my expressing, in a more particular manner, my abhorrence of the detestable action which gave rise to the Bill, and giving the reasons why I am for its commitment.

The people, Sir, in all ages, and all countries, have been on the side of mercy, and it has been frequently seen here in England, that a criminal has by this merciful inclination of the people been rescued from the just severity of the laws: but it was never seen, when the mercy of the sovereign was extended to a criminal, that the people frustrated this mercy, by barbarously dragging him before the tribunal of their own inhumanity, and embrewing their hands in his blood. This, Sir, is an action of so black a dye, that I think a brand of infamy ought to be affixed upon those who heard of so barbarous a design, and yet were so indolent (to call them no worse) as to make no preparations to prevent it; and upon the citizens who, while it was perpetrating, had neither inclination nor courage to prevent it; and when it was over, were so faithful to rebellion and murder, as to conceal the authors of it. We have heard a great deal, Sir, from the gentlemen counsel against the Bill, about the privileges of the royal burghs in Scotland; but this was not much insisted upon by the honourable and learned member who spoke first against the Bill, who well knows that when a tumult happened in the city of Glasgow, another of their royal burghs, that the magistrates there were brought into the city of Edinburgh, and this House passed a Bill amerciating the citizens of Glasgow in a sum of 5,000*l.* towards damages sustained by an honourable member of this House, by their undutiful behaviour in that tumult. Gentlemen, Sir, have been pleased to mention the case of Burton, Pryn, and Bastwick, in King Charles I's time. They might have added, that when, by means of the parliament, these three gentlemen were recalled from their banishment, they were met several miles out of town, upon their return to London, by the citizens, who attended them through the city in triumph, and with the greatest demonstrations of joy: but if any such triumphs and honours are designed by the citizens of Edinburgh for their Lord Provost, I hope they shall have no opportunity of paying them till twelve months after the passing of this Bill into a law, for which I heartily give my vote.

Lord *Cornbury* spoke thus:

Sir; I have as great a detestation of the authors of the inhuman murder which gives rise to the present Bill, as the hon. and learned gentleman who spoke last, or as any gentleman in this House, and am equally fond of having an opportunity

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publicly to express my abhorrence both of the principles and persons of the murderers. But, I believe, every gentleman will allow, that they are not the subjects of the Bill now before us, and consequently ought not to be the subject of the debate; for I believe every one will very readily agree to the severest things that can be said of them, because the more severe, the more just. There is none who disputes that there was a most outrageous insult committed against humanity, against mercy, and against majesty, in the murder of Porteous: but what is immediately under our consideration, is, Whether or not the Lord Provost and citizens of Edinburgh were guilty of treachery, indolence, or cowardice in not taking proper measures to prevent the murder after it was concerted, to suppress it before it was executed, to discover the murderers when it was over. These are points, Sir, of which we are to judge; not by the mediums of our own passions, and private resentments, which perhaps are much influenced and quickened by the horror that every honest mind entertains against the murderers of Porteous, but by the course of evidence that has been laid before this House. And however dangerous to government the impunity of the murderers may be, however provoking their insolence, and however aggravating the circumstances of the murder were, yet if it appears by the evidence laid before us, that the Provost and citizens of Edinburgh are not guilty in terms of the present Bill, we can never with justice agree to its passing into a law.

All the evidence, Sir, has been very fully examined by both parties, and no circumstance of any weight, I believe, has been omitted to give us a clear view of what passed at that unhappy juncture which occasioned the present Bill. As I think, Sir, on the one hand, it is of the greatest consequence to government, that the facts alledged in the Bill, if proved, should be exemplarily punished, so on the other hand, Sir, I am of opinion, that it is of the greatest consequence to our constitution, not to bring in bills of this nature, but in cases which cannot come under the cognizance of any inferior court. And this House, Sir, has always shewed great reluctance to proceed against any by bills of this kind, if there was a possibility that the delinquent could be convicted by any other method of proceeding. And will not after-ages, Sir, be at a loss to conceive what the heinous circumstances were, with which the crime of the Lord Provost was attended, so as to make it impossible for a parliament of Great Britain to proceed against him in any other way than by a bill *ex post facto*, and that too, in a reign wherein lenity had been long the favourite and the successful art of government?

If posterity, Sir, shall farther examine into the grounds of the present Bill, and find that not one point of it was proved, either against the Lord Provost, or magistrates of Edinburgh; if it shall be found that they were so far from being guilty in terms of the Bill, that they in some measure deserved the approbation of the legislature for the courage, zeal, and activity they shewed, both in endeavouring to prevent the murder, and in bringing the murderers to justice, will not they be yet more at a loss to account for a proceeding so arbitrary? A proceeding, Sir, which may be made a precedent, whereby a future corrupt ministry may remove any man, who by an unfashionable virtue or innocence may give them uneasiness. And I am persuaded that every gentleman in this House, if he rightly considers, will rather chuse that the Lord Provost should escape, even though it appeared that he did not act with the same spirit and activity which a younger man would have exerted upon the same occasion; I say he will chuse that the Lord Provost should escape our censure, rather than that, by giving his vote for the present Bill, he should leave a legacy which may prove so fatal to his children.

It has been said, Sir, that power and authority are two different things; but this never can be, if power is attended with justice. Power, when founded on justice, Sir, is authority, but when exerted without justice, tyranny. I have given all the attention of which I was capable to the evidence that has been laid before this House, and I will be bold to say, from what appears to me, that if the present Bill passes into a law, it may be an act of power, but it never can be an act of authority. Has it been proved, Sir, that the Lord Provost received information when the riot under our consideration was to happen, and that he neglected the necessary precautions to prevent it? Has it not been plainly proved by the evidence, both for and against the Bill, that he made the same dispositions to prevent it, upon the Wednesday, the day on which, by his information, it was to happen, as he had

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made on the day of Wilson the smuggler's execution? Has any thing come out in evidence, Sir, which can make us suspect that the Lord Provost had any reason to believe that the riot would be upon the Tuesday? And has it not appeared, that it was not believed by any man of sense in that city, that the rebels would ever have attempted, even upon the Wednesday, to execute a design that was judged so impracticable? Does it appear, Sir, that during that barbarous riot, the Lord Provost refused to go into any one measure that was proposed for the common safety, or to venture as far as the most zealous, and the most interested there? In my opinion, Sir, though he had not exposed the dignity of a magistrate to the insult of an enraged mob, by venturing so far in person as he did, he had been very excusable. During the riot, Sir, we find him not only very active in his own person, but using all the means that could be suggested, either by prudence or zeal, to discover the authors of it, by sending out proper persons, who were to mingle with the rioters, and to bring him an account if they knew any of their faces; but it does not appear, Sir, that any one citizen of Edinburgh, nor so much as any one inhabitant of that city, was concerned in the riot; though, if they had, they could not have been concealed, since all the evidences agree, that it was very easy, by means of the lights and torches which the rioters had along with them, to discover any face there. One evidence, Sir, told us, he ventured so far, by order of the Lord Provost, as to go to the very place where the murder was committed, where he heard and saw every thing that passed among the rioters till it was over, yet notwithstanding the strictest observations he could make, he could not say that there was any one face there he had ever seen before. This evidence, Sir, had lived in the city of Edinburgh from his childhood, and has been for about twelve years past in a post (I think he is one of their city officers) which gave him more than ordinary opportunities of being acquainted with the persons of the inhabitants, so that it is next to impossible, had any of them been there, but they must have been discovered.

In short, Sir, to suppose that the Lord Provost could have done more than he actually did in order to suppress the riot, is to suppose that he ought to be possessed not only of all the qualifications of a civil magistrate, but of all the abilities of an experienced general. Two gentlemen, Sir, whose zeal and attachment for his Majesty's person and government none can question, who were witnesses to the Provost's conduct after the riot was over, have given it as their opinion, that it was impossible for him or any man to have done more than he did for the discovering and bringing the rioters to justice.

But, Sir, though some slips had been committed by the Lord Provost at this dangerous juncture, are we to make no allowances for the impressions that such a scene of tumult and fury might reasonably be supposed to make upon the spirit of a man, who perhaps never saw the face of danger before? Every man is obliged to be honest, Sir, but every man is not obliged to be brave: and I think no gentleman, who has had occasion to speak on the present affair, has advanced that the Lord Provost either connived with the rioters, or was inactive in his endeavours to suppress the riot; so that if we punish him for what passed at that time, we shall not punish him for want of honesty, but for want of courage. There is another point, Sir, which claims all our attention, because our present proceeding may be a future precedent. There are many instances, Sir, in our history of riots and tumults, which have been attended with very dangerous consequences breaking out in cities; and although the rioters have been exemplarily punished, yet we have no instance of any of the magistrates of the cities where those tumults broke out, suffering in their natural capacities for what they had done in their civil. If a man acts with honest intentions, and according to the best of his knowledge, it is all that can be expected, because no man can do more.

But there is one argument, Sir, advanced against the Lord Provost, (and, indeed, it is an argument that I am surprized to hear any gentleman make use of, either in this or any other case) which is, that he did not use the proper measures for suppressing the riot. Gentlemen can only mean by this, that he did not use the measures which afterwards (that is, after the riot was over) were found to be proper. If this argument, Sir, held good, there is no politician or general, under whom any design has miscarried, but must suffer, though he behaves with all the conduct and courage which are possible to be exerted; for no man, Sir, was ever yet able to

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lay down his measures so well, but that if they miscarried, it was always found afterwards that some measures which would have been proper were omitted, and that the miscarriage of the whole was to be attributed to that omission. Would our armies, Sir, have been cut off at Brihuega, and Almansa, or surprized at Denain; or would our fleets have been baffled at Toulon, had they who were at the head of our armies and fleets taken those measures which the event showed would have been proper measures? Had the gentleman, Sir, who commanded the forces which were at that time about Edinburgh, reflected that every man was obliged as a subject of the king, whether he was a soldier or not, to assist the civil magistrate in the suppression of tumults, and consequently that he ought to have marched into the city of Edinburgh on the first notice of the riot, and to have made no scruple of breaking down any gate, of breaking through any obstacle that stood in his way, he would have taken the measures which, it is now found, would have been proper measures, and he would have acted a part which the laws of our constitution both authorize and require. But I am far, Sir, from throwing out any reflection upon that gentleman for being ignorant in this point, or for not having presence of mind enough to do what he thought was inconsistent with his orders from his superior officer: and I wish, with all my heart, that that honourable gentleman had been upon the spot at that time, for if he had, I am persuaded the riot had been prevented.

When the gentleman, Sir, who commanded the forces in the castle, was examined, he owned he knew there was a riot in the city during the time it was committed. He likewise owned that he had his forces drawn out, that they might be in readiness to march to the assistance of the Lord Provost whenever he should be required. Being asked why he did not march down his men to the city without being required, he owned that such a measure did not occur to him; and it was the best and the most natural answer he could give. Here, Sir, is a measure, which it is now found would have been a proper measure, omitted; yet how unreasonable would it be to blame that gentleman for his conduct!

I shall conclude, Sir, with a remark or two upon the imprudence of our passing the present Bill into a law. We may easily suppose, from the action now under our consideration, that there is a spirit of dissatisfaction among some of the subjects of that part of the united kingdom; and it can never be thought that our passing a Bill of this nature will serve to allay this spirit. I am willing, Sir, to entertain as good an opinion as any gentleman, of the loyalty of the Scots; but should they say 'Let us die with the Philistines,' who knows but they may have strength enough remaining to shake the pillars of this House, even though they should bury themselves under the ruins of this constitution? Governors, Sir, may think to deprive a people of the means of rebellion, they may take the wisest and the justest precautions; but a people who think themselves oppressed will always find pretensions to rebel, and despair will furnish them with arms.

Mr. *Henry Fox* spoke thus:

Sir;—The arguments both for and against the present Bill have been set in so clear a light, and so much of your time has been already taken up in this affair, that I shall beg your indulgence but for a very little time, to make some remarks upon what has been advanced by the honourable person who spoke last, and the other honourable and learned gentlemen who spoke against the Bill.

I believe every gentleman in this House has an equal abhorrence both to the principles and the persons of those that occasioned the inhuman murder which is the subject of the present debate. It is not only every gentleman's duty but his interest to exert himself both in bringing to justice the persons who were actually and immediately concerned in the murder, and likewise those who by their negligence or cowardice may be well said to have promoted it. But it seems the difficulty lies in knowing whether the Lord Provost and citizens of Edinburgh were either negligent or cowardly upon that occasion. It has likewise been much insisted on by the hon. gentleman who spoke against the Bill, that the persons who committed this detestable murder, were neither citizens nor inhabitants of that city, but all living in the adjacent country; which is saying in other words, that when a drum was beat by a boy in the streets of Edinburgh, these streets were immediately filled with men who lived at four or five miles distance. I own, Sir, it surprises me when I reflect how gentlemen insist upon its

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being possible, that people living at a distance from one another in the country, could find means to lay down so regular, so artful a plan of murder and rebellion, and afterwards to execute it in so cool, and so determined a manner, in the heart of a populous well-affected city, and that too in the view of all the magistrates and citizens of the same city: I say, Sir, these appear such absurdities to me, that I am surprized gentlemen do not at once see their inconsistencies. All the evidences, Sir, have told that the streets were crowded by great numbers of people. Now, Sir, these people must have been either the actual authors of the murder, or bare spectators; if they were the actual authors of the murder, and yet were neither citizens nor inhabitants of the city, I should be glad to know how such a multitude (one evidence I think said they might be about 4 or 5,000) could assemble in one day within a city of the extent of Edinburgh, without being perceived by any of the inhabitants, and, if they were perceived, why the magistrates were not informed of so unusual, and, as I take it, of so dangerous a concourse, and why the reasons of it were not inquired into. If we shall suppose, Sir, what I believe was indeed the case, that very few were actually engaged in the murder, can any gentleman pretend to account why that handful of rebellious conspirators were not immediately crushed by those multitudes of loyal inhabitants who were, it seems, but bare spectators. Their own evidence, Walker, Sir, has told us, that though he was near the scene of barbarity when Porteous was murdered, yet he could not discern above 40 or 50 who were actually concerned in the murder; at the same time, he owned that there were upwards of 14 or 1500 upon the spot. Now, Sir, it can never be supposed, that if these numbers who tamely looked on, and were certainly citizens or inhabitants of Edinburgh, had been the loyal, well-affected persons some gentlemen have represented them, that they would tamely have suffered so inhuman a barbarity to have been committed: nay, Sir, was not their behaviour a tacit consent to the tragedy that was then acting?

It was said, Sir, during the time that this debate has been depending, that it would be unjust, granting some of the inhabitants of Edinburgh had been actually concerned in the murder, that the innocent should be involved in the punishment of the guilty, and that the community should suffer for the rough and rebellious actions of a few. But by this way of arguing, Sir, no censure can be inflicted upon any community, which I think has never yet been asserted. We had an instance, Sir, in the year 1725, when the town of Glasgow, for a misdemeanor, which was not attended with near so many aggravating circumstances as that now under our consideration, was severely fined, and that fine raised by an equal contribution of the inhabitants. Let us now suppose, Sir, that a citizen of Edinburgh and another of Glasgow were to meet together after this Bill has passed into a law, and that both of them were so far from being accessory to either of the riots, that they were at a good distance from the cities when they were perpetrated: the citizen of Edinburgh lays open to his friend the injustice done to the community by stripping it of a few of its privileges, because the parliament found that a riot had been committed within that city by private persons: may not the other complain with more justice, that the community of Glasgow suffered more by the prosecution carried on against it, and having its magistrates imprisoned? besides, he might add, I who was absent from the town during the riot, and would have been both forward and zealous, had I been upon the spot, to have suppressed it, was obliged to pay as much as, and perhaps more, towards the reparation of the damages done by the rioters, than the most guilty there. Would not this plea have more weight in it than all the grievances which the citizen of Edinburgh could complain of? yet gentlemen thought it both wise and just at that time to proceed in this manner against Glasgow; and I believe the tranquillity which that country has since enjoyed is in a great measure owing to the seasonable severity of this House at that juncture. When the tides of popular fury, Sir, begin to beat against the servants of the crown, it has been so in all ages, that if they were not timely checked, they soon grew too strong for any barrier, either of law or duty, to oppose them, till in the end they bore down sovereign authority itself. The pillars of this House, Sir, were never shaken, nor was this constitution ever ruined, but by the cowardice and treachery of those who ought to have been the protectors and guardians of both. While we were united among ourselves we had

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nothing to fear from what was acting or plotting abroad; but if we shall now betray irresolution and weakness, if we should neglect to inflict a wholesome severity while power is in our hands and justice on our side, have we not every thing to fear from those who will undoubtedly assume courage from our timidity, and grow insolent upon our lenity? As to the fears, gentlemen have been pleased to express with respect to the resentment of the Scots, if we pass the present Bill into a law, I am under no apprehensions in that point: I believe that nation smarted sufficiently for their Rebellion in the year 1715, and will not be very forward to renew the same behaviour, lest they meet with the same fate. But, Sir, if we have just reason to apprehend any thing from the Scots at this time, and on this account, it is a very good reason to me for agreeing to the present Bill, because they will never rebel upon this account, unless they are resolved to rebel at any rate. I should much rather wish, that it were at this time, and upon this account, than afterwards, when perhaps the spirit of disloyalty may spread too much, and grow too strong to be so easily checked.

Lord *Glenorchy* spoke in substance as follows:

Sir; As I have given a very close attendance upon the House, during the time that this Bill has been depending before us; and have endeavoured, as far as I could, to divest myself of all prejudice and partiality, I hope I may be allowed to take up a little of your time with a few remarks, with respect to the evidence upon which the present Bill is founded. The honourable and learned gentlemen who first spoke for the Bill, were so candid as to acquit the Lord Provost and Town Council of Edinburgh of any malice to wards the unfortunate person, whose barbarous murder gave rise to the Bill; since, as my learned friend observed, the Lord Provost might have tried, condemned, and hanged him by his own authority, and within his own jurisdiction. Now, Sir, none of the honourable and learned gentlemen who have spoken in favour of the present Bill, have given us any reasons why they suspect that after so fair and so favourable a conduct, with respect to that unfortunate person, the Lord Provost should all of a sudden become so indolent, after he was informed of the design to murder him, as to take no measures to prevent it, or, while it was acting, to use no efforts to quell the rioters. As I think no reason can be given, I believe gentlemen will be puzzled to state his misdemeanor (if he was guilty of any, as I am far from thinking he was) in such a light as to make him guilty of knowingly and deliberately favouring the murderers of a man to whom he had but a little before showed so much (I may say from the circumstances of Porteous's guilt) partial favour. All that gentlemen can pretend to charge the Lord Provost with, is the want of foresight and courage, both which qualifications are, I own, indispensable to a magistrate; but I believe there is no instance where any magistrate was ever punished for not exerting talents with which nature never endowed him. If from the circumstances of the Lord Provost's behaviour, we find that he acted according to the best of his knowledge and abilities, I am of opinion that though that knowledge and these abilities were not so extensive as were required in a magistrate who bore so distinguished a post, yet we are not to blame him, but his constituents, among whom it appears he has always lived, for chusing him into an office no ways proportionate to his abilities. As to what the honourable gentleman was pleased to mention with respect to the behaviour of the citizens of Edinburgh during the time of that barbarous riot, I think it was sufficiently answered by an act of parliament produced at the bar of this House, made before the union of the two crowns, and still in force in that kingdom, by which it is made death for any number of the inhabitants of the city to assist in appeasing any riots without the express orders of the Lord Provost and magistrates. If it should be asked, Why was not this order given? The answer is easy, because the Lord Provost and magistrates were deprived, by the precautions the rioters had taken, and the fury they exercised, of every possible means both of issuing such an order, or of having it obeyed, if it had been issued. You have heard from the evidence, Sir, that the city officers are they that wait upon the Lord Provost and magistrates' persons, and are the ordinary messengers of all the orders dispatched by them; and that they were so severely pelted by the mob, that they were obliged to throw off their livery coats, and to shelter themselves in their own houses; one, it is true, had the good fortune to

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escape their fury, and wait upon his masters during the riot, but was at last obliged to put off his livery-coat, otherwise he must have been knocked on the head by the rioters. This, Sir, with many other circumstances, have been so fully insisted upon already by the honourable and learned gentlemen who have spoke in this debate, that I shall not pretend to add any thing to what they have said, since it so well proves that it was impossible for the Lord Provost to have raised the militia of the city, and if they had of themselves without his order assisted in suppressing the riot, we see that every man of them had been liable to death. The honourable gentleman who spoke last, was pleased to express himself in such a manner as shewed that he was under no apprehension from any resentment of the Scots, in consequence of our passing the present Bill into a law. I have as good an opinion of our strength when we are united, as that honourable gentleman, or any gentleman in this House; but then gentlemen cannot be ignorant, that that is far from being our case at present; that though perhaps any one faction cannot harm us, yet we have reason to apprehend that there are many who are disaffected to our present happy establishment upon different accounts, who will greedily embrace any opportunity, and join with any party, though of principles and interests differing widely in other respects, provided they have one favourite point in view, which is that of distressing the government. Besides, Sir, we ought to consider that we have a powerful neighbour, who no doubt has a watchful and jealous eye upon all our resolutions, and would not miss any opportunity of improving every circumstance to her own advantage, should we lay ourselves open to any inconveniences of that nature. I should be sorry, Sir, if from what I have said any gentleman thought that I intended to favour faction, or to magnify her forces. No, Sir, were I not firmly persuaded that we ought, both in good policy and common justice, to throw out the present Bill, I should be as forward for vigorous measures on this occasion as any gentleman in this House; and I am sorry that I am, upon these considerations, obliged so far to differ from the honourable and learned gentlemen who have spoke for the Bill, as to give my vote against its being committed.

Mr. *Oglethorpe* spoke thus:

Sir; I never had the happiness to be married, but I have been told, and I believe, that marriage is a very happy state. I have often, Sir, heard the Union betwixt us and our neighbouring nation compared to marriage, and I think not improperly, for the happiness of both parties must consist in a mutual harmony and good understanding, which can never be, if the stronger shall pretend to oppress the weaker; and the Scots, Sir, when they entered into this state with us, put so absolute a confidence in our honour, that it would be both ungenerous and unjust for us to give them the least cause to repent their bargain. I shall readily own, that a most horrid riot and murder happened within the city of Edinburgh, and that there were several obvious measures neglected which might have prevented it; but I think the punishment intended by the present Bill, is by far too severe, both with respect to the Lord Provost and the city itself.

As to the Lord Provost, Sir, I am of opinion he did all that could be expected from a man of his age or abilities, and cannot see any reason why he should be singled out for punishment. And, Sir, as gentlemen have in this affair been pleased to quote Puffendorff and Grotius, I shall beg leave to quote the words of an author, whom I am sure most gentlemen in this House have read twice for once that they have read either of those two authors. The words are in a book which I have in my pocket, and which is called Hudibras.

> "Though nice and dark the point appear,
> (Quoth Ralph) it may hold up and clear.
> That sinners may supply the place
> Of suffering saints is a plain case;
> Justice gives sentence many times
> On one man for another's crimes."
>
> Hud. P. 2. Cant. 2.

These lines, Sir, introduce an account of a bed-rid weaver in New England, who was hanged for the murder of an Indian, committed by a preaching cobler. The Indians, it seems, insisted warmly that the murderer should be hanged; and as they did not know his person, the saints thought it much better to hang up the bed-rid weaver than the offender, who was a useful man among them, by acting in the double capacity of preaching and cobling. I leave gentlemen to apply this bed-rid weaver's case to the Lord Provost's. I shall only observe, that from what appears

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by the evidence given in at the bar of this House, there were others equally, if not more guilty.

As for the censure inflicted upon the city of Edinburgh, by the present Bill, I think there is something in it that is contrary to the intention of the Bill. The intention of the Bill, Sir, as I take it, is to punish the citizens for not suppressing an inhuman riot, and preventing a barbarous murder; but the censure to be inflicted upon them for this, by taking away their guard, plainly puts it out of their power to suppress any such riot for the future. Here is a city, and here are magistrates, liable to be insulted by an outrageous mob, yet we tie up their hands from quelling that mob, and we punish them because it was not quelled. In my opinion, we cannot do a greater piece of service to the authors of Porteous's murder, than to consent that the present Bill should be passed into a law; for we by it expose both the peace of the city, the authority of the magistrates, and the interest of the country, to all their future insults. In short, Sir, I think the present Bill is neither calculated to punish those who were negligent in suppressing that late riot, nor for preventing the like in time to come; and I could wish that gentlemen would fall upon some other means for answering both these ends.

Mr. *James Erskine* spoke as follows:

Sir; I hope my being of the country where so barbarous and inhuman a murder as that under our consideration was committed, will not be a motive for any gentleman to suspect that I am to say the least word that can even be wrested to favour the bloody rioters who were the actors. No, Sir; every gentleman of that country, who has the honour to sit in this House, has much more reason than others for giving his vote for the severest proceedings both against the authors and favourers of the murder; because where the flames of rebellion mount so high, and blaze so fierce as they did at that unhappy juncture, it is more particularly both the duty and interest of every honest man, and every loyal subject, whose properties lie more immediately in that country, to do his best to extinguish them, to bring the incendiaries to justice, and to concur with every measure that may be effectual for either of these purposes. I say, Sir, 'that 'may be effectual;' for were I not persuaded that the methods proposed by this Bill are both ineffectual and unjust, I should be the last person in this House to vote against the present motion. All the gentlemen, Sir, who have spoken both for and against this motion, have agreed as to the heinousness of the fact, and the necessity the legislature is under to punish both the authors and favourers of it. There is a Bill in dependance, Sir, before this House, for punishing the former; and, I believe, it will meet with very little, if any opposition. But what gentlemen seem to be divided upon in the debate upon this Bill is, who these favourers were? So much, Sir, has been said upon this head already, that I shall not resume any of the particulars; I must only beg leave to observe one thing which has been overlooked in the course of the present debate, and that, Sir, is with respect to the nature of one part of the punishment inflicted by the present Bill upon the citizens of Edinburgh; what I mean is the demolishing the city gate. If this gate, Sir, were the property of the persons who by the present Bill are supposed to be guilty, and if these persons were proved to be guilty, I shall not deny but the punishment would be adequate to the offence. But the case, Sir, is otherwise; the gate belongs to the corporation, and corporations, in the sense both of our law and the civil law, are in some measure looked upon as minors, whose estates the magistracy of the city, and the electors of that magistracy, which are the town-council, and the constituents of that town-council, which are the merchants and traders, are no other than the trustees and the guardians. Hence, Sir, it is plain, that if we shall think fit to punish the corporation for a misdemeanor committed by the magistrates and traders, we shall do the same thing, as if a judge, for a fault committed by the guardian of a minor, should give sentence, that the damage sustained by the misdemeanor should be made up out of his pupil's estate. If gentlemen view the present Bill in this light, and at the same time reflect, that besides the inhuman insult committed upon majesty and government by the barbarous riot we are now considering, the corporation itself was a very great sufferer; and had it not been for the measures taken by the magistrates, in all appearance, would have been still a greater by that riot. I say, Sir, if gentlemen would be pleased to consider this, I am persuaded they would be very cautious in giving their votes for in-

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flicting the censure proposed by the present Bill.

An hon. gentleman, Sir, who spoke for the motion, made an observation, which, in general, I believe is very just; that it has been many times seen, that malefactors have been screened from the severity of the laws, but never deprived of the mercy of the legislature, by the interposition of the populace. It would be, perhaps, thought needless to remark, that when the populace interposes in favour of a malefactor, it is seldom from a principle either of humanity or justice towards the malefactor; but from a spirit of opposition to, and dissatisfaction against, the governors; or, perhaps, from a fellow-feeling of the malefactor's circumstances: but the use, Sir, I suppose the hon. gentleman intended to make of this observation, was to inspire an horror of the spirit in which the rioters acted when Porteous was murdered. I must however beg leave to observe, that there have been exceptions to the hon. gentleman's observation in the proceedings of the populace of this country, and even of this instance. If I am not misinformed, Sir, there was an instance, not long ago, of a person being murdered by the populace of Westminster while he was upon the pillory, or at least a very little time after he was taken from it. A person, Sir, while upon a pillory, is as much under the protection of the laws, as a person that is in prison, and has received the benefit of the royal mercy; and though the murder of the former may, perhaps, seem not to express so great a contempt of majesty as the murder of the latter, yet the magistrates are by their offices bound to act as vigorously to prevent the one as the other. And the criminals, if apprehended and convicted, are equally punishable in the eye of the law. If I am misinformed, Sir, as to this instance, I hope gentlemen will do me the favour to put me right; but if the fact be as I have stated it, I think it is a proof that Edinburgh is not the only city whose populace is inhuman and barbarous. We never heard, Sir, of any measures taken by the legislature for punishing the high-constable, justices of the peace, or whoever were the magistrates of Westminster, for not preventing that riot and murder; nor did we ever hear of those magistrates interposing in person with the immediate hazard of their lives, to prevent them, as the Provost and magistrates of Edinburgh did in the case of Porteous; yet had a Bill for that effect been brought in before this House, would not gentlemen have looked upon it as both ridiculous and unjust? I am sorry that I have been obliged to take up so much of your time with what I have said; but I thought my duty to my prince and country obliged me to suggest whatever I thought would contribute to have a Bill thrown out, which, if passed, can never promote, but may much weaken the interest of both.

Sir *William Yonge* spoke thus:

Sir; It is surprising that gentlemen should express such a detestation of the riot now under our consideration, and yet should so zealously oppose the measures laid down by the present Bill for punishing those who by their negligence and remissness contributed to promote it. My hon. and learned friends, who moved that this Bill should be committed, were pleased to allow, that the Lord Provost and the magistrates of Edinburgh shewed no personal rancour to Porteous in their proceedings against him before his condemnation; but this is a concession I should have been far from making; because I think it appears by his trial, that he was in some measure under a necessity of acting as he did on the day of Wilson's execution. He had positive orders from his superior officer, who was the Lord Provost, that in case of an attempt to rescue the prisoner, he should do military execution, and powder and shot were delivered to him and his men for that effect. An attempt of that kind, Sir, was made; the men under Porteous's command, for whose safety he was to be answerable, were insulted and attacked, to the immediate danger of their lives. What could the poor man do in such a situation as he was then in, but to make the best defence, and to bring off his men in the best manner he could? yet after all, it is far from being clear to me, that the killing of so many persons as fell that day was owing to Porteous, because it does not evidently appear by his trial, that he either fired among the mob himself, or that he gave such orders to his men. These circumstances, Sir, make me think that it was with a very bad grace, that the Lord Provost and town-council became his prosecutors, and that they threw him in prison, depriving him of his pay, and leaving him only the poor subsistence of half a guinea a week. An hon. and learned gentleman, who was present on the spot, and who has spoken

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against the motion, has told us, that while Porteous was upon his trial, the rage of the mob was so great against him, that he was in danger of being torn in pieces, and was obliged to be carried betwixt his prison and the place where his judges were, under a very strong guard. Can we suppose, Sir, that this mob came from the country likewise, and that it was not the very mob that afterwards so inhumanely murdered him? Ought not this, Sir, to have instructed the Lord Provost and magistrates to have removed him to a place of more safety than their common prison-house? Yet, Sir, in the whole course of the evidence we have not heard of one step or motion made for that obvious measure. I shall not run over any more of the particulars of that tragical scene; but I cannot help observing, that the gentlemen who put questions in favour of the Lord Provost and city of Edinburgh, to the evidence, had great advantages from their being perfectly well acquainted with every circumstance that could put matters in the best light for the Lord Provost and the city; and that several of the evidences, though not comprehended in the present Bill, have such a relation to, and such a dependance upon the magistrates, and had themselves such a share in what was acted on the Provost's part that night, as makes it highly improbable, that they would of their own accord discover any thing which they imagined might tend to the prejudice of either; not to mention, that some of them have grossly prevaricated in favour of them both. Notwithstanding, Sir, all this, it is undeniable, that a most barbarous murder, and an open insult upon government, was committed within that city, and that the chief magistrate of that city had previous information given him, yet took not even the most obvious measures for preventing it: and it is likewise evident, that not one of the rioters hath yet been brought to justice. All these considerations, Sir, sway as much with me, as if the most minute circumstances of the facts laid down in the preamble of the Bill had been actually proved; though I think there is enough proved to satisfy my own conscience, that I act according to justice, and consistently with the character of one who has the honour to sit in this House, if I give my vote for the commitment of this Bill.

Lord *Polwarth* rose next, and spoke in substance as follows:

Sir; Ever since this Bill was brought before us, I have endeavoured, by a close attendance in the House, to make myself as much master of what could be said for or against it, as I was able: and if any gentleman will shew where one argument in the charge against the Lord Provost and city of Edinburgh has been proved, [here he was interrupted by some members] I will this instant give my vote for the commitment of the Bill; I say it again, Sir, if any gentleman will shew one article that has been proved against the Lord Provost and the city of Edinburgh, I will give my vote for the commitment of this Bill. The hon. and learned gentleman who seconded the motion, in his observations upon the evidence, was pleased to advance, that during the time of the riot a person came into the tavern where the Lord Provost and magistrates were, and affirmed that he knew one of the rioters, offering at the same time to name him, but that he was forbidden by some of the company, who desired him to wait till a more proper opportunity. I think there was not one article advanced by any of the witnesses that escaped my notice; and I dare venture to affirm, that not one of them gave any such evidence. [Here he was again interrupted by some members, who cried, no! no!] Nay, I appeal to the minutes of the examinations, and will sit down till the clerk shall read them. [Here he sat down.] I shall make a remark or two upon one part of the speech that was delivered by the hon. gentleman who spoke last; the rest of it I think requires none. The hon. gentleman seems to be satisfied in general with the truth of what is laid down in the preamble of the Bill, but has not been pleased to shew how one particular circumstance has been proved. It has always been my opinion, Sir, that as we are the judges of this affair, we ought to act upon the same grounds, and be determined by the same rules of equity, as other judges are. As we have gone through a long course of evidence, we can have no other foundation to build our judgment upon, than the facts that have appeared from that evidence; else why have we spent so much pains and time upon it, at such an advanced season of the year? and we have heard evidences, Sir, who have seemed to be very much disposed to have aggravated every circumstance of misconduct or negligence, could they affix either of them upon the Provost or magistrates of Edin-

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burgh. Something indeed was advanced that looked that way, and has been much insisted upon by the gentlemen who have spoken for the motion, though the account given by gentlemen of undoubted honour and probity, of the personal character of these witnesses, and the many inconsistencies of their evidence, make it surprizing to me, that they ever should be mentioned but with indignation. I am persuaded, Sir, that if gentlemen would lay their hands upon their hearts, and ask of themselves, whether they would have voted in the manner they have done, had the case of the city of Edinburgh been that of the cities of Bristol, York, or any of the large cities of England; I say, Sir, I am persuaded gentlemen would have required, that every tittle of their charge against them should have been fully and undeniably proved. It is true, Sir, that none of the authors of this detestable murder have ever been apprehended: but, Sir, is it necessary, that, in order to make a decent and a plentiful execution, we should punish those who seem to have no other crime but their endeavouring to suppress the crimes of others; and must the innocent be punished, because the guilty have gone unpunished? As this seems to me, Sir, to be the case with respect to our proceeding on the present Bill, I heartily give my vote against the motion.

Sir *John Barnard* spoke to the following effect:

Sir; As I have some concern in the civil magistracy of a city, and probably may have more, I do not think it sufficient for me barely to give my vote against the present motion, without taking notice, that we are now upon a point that may some time or other equally affect every civil magistrate, and every community in the kingdom. If the Lord Provost of Edinburgh was guilty of any fault during the time of this unhappy riot, it was of too much rashness, and too much zeal, in exposing his person and character in order to suppress it. For my share, Sir, I cannot see what view the Lord Provost could have, if he did not act with zeal and in good earnest, to expose both his own life, and that of his friends, in his repeated endeavours to suppress the riot: and had I been in his case, Sir, I doubt very much if I had gone so far as he did. I know the behaviour of the gentleman who was lord mayor of London, when a mob happened upon the anniversary of the memorable Excise Bill's being set aside, has been mentioned upon this occasion: but all the world condemned that gentleman for exposing his person so much as he did to the fury of the populace, and there was not a friend he had but blamed him for his rashness. But setting aside all these considerations, Sir, I think that our proceeding by Bills of this nature has so dangerous a tendency, that though I did think the subjects of the Bill guilty, I should never give my vote for proceeding against them in this manner. It may be a precedent, Sir, for a future minister to wreck his indignation upon any civil magistrate; but we have no room to imagine that he would bring in any such Bill against another minister, let him hate him never so much, because that may be a preparative for serving himself in the same manner by a succeeding minister who is in power, and who hates him.

Sir *Robert Walpole* said:

Sir; Ever since I had the honour to sit in this House, I never heard any affair more dispassionately examined into, more candidly discussed, and more patiently attended to, than the present, especially by the gentlemen of the country where this scene of murder and rebellion happened; and indeed, as I stand affected in the present question, I could be almost tempted to wish, that the gentlemen of that country had defended the cause of their city and its magistrates with less eloquence and calmness than they have done, and at the same time that some other gentlemen had behaved with more decency and temper; for after the impartial behaviour of this House, Sir, in the present question, I cannot see the good tendency of these inflammatory speeches that have been thrown out by some gentlemen upon this occasion. For my part, Sir, I disdain the distinction that has been made betwixt civil magistrate and the minister of state, and, I hope, I never have given any grounds, by my behaviour as a minister, to imagine I would have a regard to any such distinction. And I am sure, Sir, the behaviour of the ministry upon this occasion, can give no room for any of these inflammatory insinuations. The subject of the present Bill was thought to be in the other House of so important a nature, that they spent a great deal of the present session in the examination of this affair, and have sent down the Bill to us in the shape it is at present. We ourselves, Sir, after a long and painful

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examination, have found there has been a cruel murder and a rebellion committed in that city. There is no gentleman but must own, that these are two crimes that ought to be severely punished, upon not only the authors, but even upon such as in the most distant manner were their abettors. And, Sir, from the course of evidence that has been laid before this House, I can with a good conscience say, that had the towns of Bristol, Norwich, &c. or any of our great incorporations in England, behaved in the manner the magistrates and citizens of Edinburgh did on the present occasion, I should have been as forward as any gentleman in this House to have inflicted as severe, if not a severer punishment upon them, than what is implied by this Bill against the other. In short, Sir, I think that we should err against all prudence and good politics, should we, without once committing it, reject the present Bill. If, after it is committed, gentlemen should think fit to make such amendments upon it as may leave the privileges of the incorporation of Edinburgh untouched, and remit the most penal part of the punishment of the Lord Provost; and if these amendments should be founded upon reason and equity, I shall by no means be against them: but in the mean time I heartily vote for committing the Bill.

Mr. *Walter Plummer* said, he was of opinion there could nothing new come out in debate, when the Bill should be committed, that did not then appear: and that as they had heard the evidence examined, he thought there was no occasion to take up the House's time longer about it at this advanced season. For since they had no other rule to go by in the present affair, than what arose from the evidence; and as that appeared so lame, that not a single point was proved against the Provost or citizens of Edinburgh, he was of opinion they could do nothing more, agreeable to equity or reason, or to the honour and dignity of parliament, than to drop the Bill entirely.

Upon a division of 124 against 118, it was resolved, that the Bill should be committed. It was next resolved, that the House would on the Monday resolve itself into the said Committee. It was at first proposed, that the House should next day resolve itself into the said Committee; but some members took notice, that next day, being the 10th of June, they thought it a very improper day for them to go into a Committee on such a Bill. The scope of the Bill, as it then stood, was for demolishing the ports, and dismissing the guard of the city of Edinburgh, those very ports, and that very guard, which had enabled that city to keep the Pretender out in 1715; and for doing this they were to chuse that very day which was celebrated by all Jacobites as the Pretender's birthday. This they thought was not very prudent; it would be a matter of triumph to all Jacobites, who would not fail to represent it as a judgment to the city of Edinburgh for shutting their gates against their lawful and rightful sovereign, as Jacobites were pleased to call the Pretender to his Majesty's crown and kingdoms. This consideration, they hoped, would have some weight against agreeing to that part of the Bill, when they went into a Committee upon it; but they took notice of it at that time only to prevent the House's going into a Committee upon such a Bill on such a day. For this purpose they hoped it would be of sufficient weight; and that therefore no gentleman would insist upon the House's going into a Committee upon that Bill till Monday then next.

June 12. The House having resolved itself into the said Committee, the preamble and every clause of the Bill was opposed, and upon each there was a distinct debate, several of which were pushed so vigorously, and with so much success by the opposing party, that the Bill not only changed its name, but in some manner its form.

Nay, in the Committee, the Bill run a very great risk of being lost; for after all the Amendments had been made, the Bill then appeared to be so very different from what had been sent them by the Lords, that when a motion was made for reporting the Bill with the Amendments to the House, the same was strenuously opposed; and after a long debate, when the question was put, the division was 130 for reporting, and 130 against it; so that it came to the casting vote of colonel Bladen, who was chairman of the Committee, and who gave his vote in favour of the Bill. But there was another circumstance which contributed to the passing of this Bill, or rather prevented its being lost; for at that very time, when this equal division happened, Mr. James Erskine, and the Solicitor General for Scotland, were both in the House of Peers engaged as counsel in the hearing of an appeal there; which both of them endeavoured as much as they could to

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have put off, in order that they might be present in the Commons; but this request was refused; and as both had often before declared themselves against every part of this Bill, it is probable, if they had been present, they would have voted against reporting it, which would have prevented its being in the chairman's power to do what he did.

The motion being thus carried for reporting the Bill with the Amendments, the report was ordered to be received the next morning; and colonel Bladen having accordingly reported the Amendments that day, the first, which was that for leaving out the several clauses for demolishing the Nether-Bow Port, and for taking away the guard of the city of Edinburgh, was read a second time, and agreed to by the House; then the other Amendment made by the Committee, being the clause for imposing a fine upon the Corporation of the city of Edinburgh, was read the second time; and a motion being made for re-committing that Amendment, after a long debate, the question was put, and carried in the negative, by 144 to 123 after which the Bill was ordered to be read a third time next morning.

June 13. The Bill was read a third time; after which, a motion was made for passing the Bill; and upon the question being put, it was carried in the affirmative by 128 to 101; and colonel Bladen was ordered to carry the Bill to the Lords, and acquaint them, that the House had agreed to the same with some Amendments, to which they desired their concurrence, which were agreed to, and the Bill passed into an Act.

PROCEEDINGS RELATING TO THE PLAY-HOUSE BILL.*] May 20. Sir Robert Walpole obtained leave to bring in a Bill "To explain and amend so much of an Act, made in the 12th year of the reign of queen Anne, intituled, 'An Act for re-'ducing the laws relating to rogues, vaga-'bonds, sturdy beggars, and vagrants,

* "A Bill passed in this session for restraining the number of Playhouses that had been so lately and so justly complained of, and for subjecting all dramatical performances exhibited on the stage, to a license from the lord-chamberlain of his Majesty's household, before they could be acted. The first part of this Bill was agreeable to the sentiments and desires of the city of London, and of all the sedate, industrious part of the nation; and the power of licencing added very little to that which the lord-chamberlains of the household had immemorially enjoyed and exercised. The truth is, the minister and his friends had been, past all sufferance, provoked by exhibitions upon the theatre; and a needy writer, who had composed a kind of comedy which insulted them still more, had artfully found means to convey it into his hands in hopes of receiving a considerable sum for suppressing it. But he was deceived; for the minister, by producing and reading some part of it in the House, made it an argument for falling upon some more effectual method for regulating the stage, which was proposed to be done by the Bill in question. This was opposed by his enemies, who represented it as an indirect violation of the liberty of the press; and the earl of Chesterfield opposed it as such by a speech, in which all the powers of eloquence were displayed to the utmost advantage, both in composition and delivery. The Bill, however, passed both Houses; nor has the public yet felt any of the melancholy effects that were foretold upon its being carried into execution." Tindal.

"The next effort of the minister was obliquely levelled at the liberty of the press, which it was much for his interest to abridge. The errors of his conduct, the mystery of that corruption which he had so successfully reduced to a system, and all the blemishes of his administration, had been exposed and ridiculed, not only in political periodical writings produced by the most eminent hands, but likewise in a succession of theatrical pieces, which met with uncommon success among the people. He either wanted judgment to distinguish men of genius, or could find none that would engage in his service: he, therefore, employed a set of wretched authors, void of understanding and ingenuity. They undertook the defence of his ministry, and answered the animadversions of his antagonists. The match was so extremely unequal, that, instead of justifying his conduct, they exposed it to additional ridicule and contempt; and he saw himself in danger of being despised by the whole nation. He resolved to seize the first opportunity to choak those canals through which the torrent of censure had flowed upon his character. The manager of a playhouse communicated to him a manuscript farce, intituled, The Golden Rump, which was fraught with treason and abuse upon the government, and had been presented to the stage for exhibition. This performance was produced in the House of Commons. The minister descanted upon the insolence, the malice, the immorality, and the seditious calumny, which had been of late propagated in theatrical pieces. A bill was brought in to limit the number of playhouses; to subject all dramatic writers to the inspection of the lord-chamberlain; and to compel them to take out a licence for every production before it could appear on the stage. Notwithstanding a vigorous oppo-

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into one Act of Parliament; and for the more effectually punishing such rogues, vagabonds, sturdy beggars, and vagrants, and sending them whither they ought to be sent, as relates to common players of interludes." This Bill, which was passed into a law, and remains still in force, was ordered by the House of

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sition, this bill passed through both Houses with extraordinary dispatch, and obtained the royal sanction. In this debate the earl of Chesterfield distinguished himself by an excellent speech, that will ever endear his character to all the friends of genius and literature, to all those who are warmed with zeal for the liberties of their country. His arguments had no effect, though the House admired his elocution; and the Playhouse Bill passed into a law."

Smollet.

The following curious Account of the Origin and Progress of the Playhouse Bill, is given by Mr. Coxe, in his Memoirs of Sir Robert Walpole:

"An act of this session, which is commonly denominated the Playhouse Bill, has exposed the minister to no less obloquy, from subsequent writers, than his opposition to the reduction of interest.

"Those who thus load him with indiscriminate censure, and impute this act solely to his 'despotic influence,' have not paid due attention to the history of the English stage, to the power of the lord-chamberlain over the players and theatrical representations, and to the opinion of the most moderate and best informed magistrates at the period of passing this act, which has been so much calumniated, and so little understood.

"It is needless to discuss the question concerning the necessity of fixing some bounds to the licentiousness of the stage. The necessity must be allowed, except by those who think it fitting to subject to public mockery, law, government, and religion, and to expose magistrates, judges, and kings, to the personalities of satire, buffoonery, and low mimicry. In all well regulated governments, the fact has been universally admitted, and wherever it has not been adopted, the most fatal consequences have followed. Even the freest democracy which perhaps ever existed, that of Athens, after having experienced the effects of unrestrained licentiousness in their theatrical performances, found it necessary to remedy the evil, and to limit the stage within the boundaries of common decency and justice.

"It appears from the history of the English stage, that no period ever existed when it was not subject to superintendence, when players were not licensed, and when plays were not reviewed and amended, allowed, or rejected. Before the reign of Henry the 8th, the power of superintending the king's hunting parties, the direction of the comedians, musicians, and other royal servants, appointed either for use or recreation, was exclusively vested in the lord chamberlain.

"Under him, and subject to his controul, was an inferior officer, who exerted himself on particular occasions for the purpose of regulating pageants, public festivals, and masquerades. This man was called by the fanciful names of the 'Abbot of Misrule,' or 'Lord of Pastimes.' But in the reign of Henry the 8th, this temporary office was rendered regular and permanent by letters patent, and called the office of 'Master of the Revels.' ['Officium magistri 'jocorum, revelorum et mascorum.']

"Under Elizabeth, some wise regulations, with the advice of Walsingham, and co-operation of Burleigh, were made for allowing the use, but correcting the abuse of the stage; particularly, when the earl of Leicester obtained the first general licence for his theatrical servants to act stage plays in any part of England, a proviso was added in the patent, enjoining that 'all comedies, tragedies, interludes, and stage 'plays should be examined and allowed by 'the Master of the Revels.' Thus that authority which was before confined to the pastimes of the court, was now extended to the theatrical exhibitions of the whole kingdom.

"During her reign also, the privy council exercised an authority, legislative and executive, over the dramatic world. They opened and shut playhouses; gave and recalled licences; appointed the proper seasons when plays ought to be presented or with-held; and regulated the conduct of the lord mayor of London, and the vice-chancellors of Oxford and Cambridge, with regard to plays and players. The privy council gave Tilney, the master of the revels in 1589, two coadjutors, a statesman and a divine, to assist him in reforming comedies and tragedies.

"These prudent regulations, and the wisdom with which they were exercised, were attended with the most beneficial effects. The master of the revels, by regulating the stage, and restraining the number of theatres, gave greater respectability to the profession of a player, and the genius of the drama expanded and soared to a greater height, although its limits were contracted and its flight circumscribed.

"Had not these wise regulations taken place, Shakespeare might have confined to burlesque farces and low buffoonery, those vast powers of invention and description which his own language can alone adequately delineate:

'The poet's eye in a fine frenzy rolling,
'Glances from heav'n to earth, from earth to heav'n,
'And as imagination bodies forth
'The forms of things unknown, the poet's pen
'Turns them to shape, and gives to airy nothing
'A local habitation and a name.'

"By the wise and temperate use which the master of the revels made of his power, his weight and influence increased, and he gra-

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Commons to be prepared and brought in on Friday the 20th of May; and was occasioned by a farce called the Golden Rump, which had been brought to the then master of the theatre in Lincoln's-Inn-Fields, who, upon perusal, found it was designed as a libel upon the government, and therefore, instead of having it acted, he carried it to a gentleman concerned in the administration, and he having communicated it to some other members of the House of Commons, it was

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dually appropriated to himself the greater part of that authority which had belonged to the lord chamberlain. During the latter part of the reign of James the 1st and Charles the 1st, it was held by sir Henry Herbert, nearly allied to the earl of Pembroke, lord chamberlain: under his prudent management the reputation and consequence of the office increased, and produced the most salutary effects, until his functions were wholly suspended, by the troubles and confusion of the civil wars, and the fanaticism of the republicans.

"On the restoration of Charles the 2nd, the master of the revels endeavoured to re-assume his former authority, but met with insuperable opposition from the proprietors and managers of the king's and duke's companies, one of whom had obtained a fresh licence to act plays, the other a renewal of a former grant. In vain the master of the revels applied to the courts of justice for redress; in vain he appealed to the sovereign, or to the lord chamberlain; he was neither supported by the one, or countenanced by the other; his authority, though not overthrown, was considerably shaken, and his regulations were combated and despised.

"During this suspension of his power, the particular differences, pretensions, or complaints, were generally settled by the personal interference of the king and duke, or referred to the decision of the lord chamberlain. In consequence of this relaxation of authority, and the libertine character of the court, the theatre was disgraced by the grossest ribaldry and obscenity, and the best authors vied who should produce the most licentious comedies. Ladies could not venture to attend a new play without masks, then daily worn, and admitted into the pit, the side boxes, and the gallery.

"On the death of sir Henry Herbert, the mastership of the revels was conferred on Charles Killigrew, manager of the king's company. The union of these two functions increased the evil, and the smallest check was not imposed on the glaring immorality of the stage.

"At the Revolution, the power of the lord chamberlain over the theatre was revived without restriction. He opened and shut playhouses, imprisoned and licenced players, corrected and rejected plays. Under him the master of the revels seems to have recovered some part of his former power, and to have had his share in the revolutions of the theatre. He revised and sanctioned plays, and his aid greatly contributed to the celebrated conquest which Jeremy Collier, by the publication of his short view of the stage, obtained over the immorality of the drama. In this publication, the most profane and obscene passages in several modern plays, which had been written by Dryden, Vanbrugh, Wycherly, Congreve, and the most admired dramatic authors, were detected and exposed. The truth of his observations, which all the wit and talents of the authors who were deservedly chastised could not controvert, produced a surprising effect; a general outcry was raised against the licentiousness of the stage, and king William sent the following order to the playhouses: 'His majesty being 'informed, that notwithstanding an order made 'in June 1697, by the earl of Sunderland, then 'lord chamberlain of the king's household, to 'prevent the profaneness and immorality of 'the stage, several plays have lately been act-'ed, containing several expressions contrary to 'religion and good manners: and whereas the 'master of the revels hath represented, that, 'in contempt of the said order the actors did 'neglect to leave out such profane and inde-'cent expressions, as he had thought proper to 'be omitted: therefore, it is his majesty's plea-'sure, that they shall not hereafter presume to 'act any thing in any play, contrary to reli-'gion and good manners, as they shall answer 'at their utmost peril.' At the same time, the master of the revels was commanded not to licence any plays containing irreligious or immoral expressions, and to give notice to the lord chamberlain, or in his absence to the vice-chamberlain, if the players presumed to act any thing which he had struck out.

"But this reformation did not continue long in its full force. As soon as the first awe and panic of the actors had subsided, the stage nearly relapsed into its former immorality, all attempts to reform it became the object of theatrical wit, and were ridiculed in plays, prologues, and epilogues. Although the new plays were usually more decent and moral, yet the old plays were frequently acted, without being freed from their exceptionable passages.

"Either in consequence of these proceedings, or of some disputes which arose between the actors of the royal theatres, and produced the desertion of the principal performers from Drury Lane to the Haymarket, the nuisance of playhouses, and the conduct of the performers, became so flagrant, that a Bill, in the twelfth year of queen Anne, included players, who acted without a legal settlement in the places where they performed, among vagrants, and subjected them to the same penalties as rogues and vagabonds. But before the beneficial effects of this act could have time to operate, the death of the queen produced a new revolution in the drama.

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resolved to move for leave to bring in a Bill for preventing any such attempt for the future; and the motion being, as we have said, complied with, the Bill was brought in on the 24th, and passed through both Houses with such dispatch, that it was ready for the royal assent by the 8th of June; and accordingly received the royal assent on the 21st.

In both Houses, we are told, there

"Soon after the accession of George the 1st, the power of the master of the revels, which had been considerably circumscribed, was almost annihilated; a new patent was injudiciously granted to sir Richard Steel, Colley Cibber, and Booth, for acting plays without subjecting them to the licence or revision of any officer.

"In consequence of this grant, the master of the revels was abridged of his power, and defrauded of his dues, and his emoluments were reduced to a small salary from the exchequer, to lodgings in Somerset House, and to occasional fees.

"At the death of Charles Killigrew, the office, thus mutilated, was conferred on Charles Henry Lee, and the decline of his power was sufficiently shewn by the growing licentiousness of the stage, and the numerous pieces which offended equally against religion, decency, and common sense.

"Although, in all the letters patent for acting plays since the time of Charles the First, no mention was made of the lord chamberlain, yet he was still considered as possessing an absolute, though an undefinable authority over the stage, which he had occasionally exercised. The performance of several theatrical pieces had been prevented, particularly Lucius Junius Brutus, a prologue of Dryden to the Prophetess, Mary queen of Scotland, and recently Polly, the sequel to the Beggar's Opera.

"But as this exercise of his power had been always attended with much unpopularity, it was seldom exerted. Numerous theatres were erected in different parts of the metropolis, in which the actors performed without licence or authority. To prevent this, several attempts were made to enforce the laws then existing. An actor, who performed on the theatre of the Haymarket, without licence, was taken from the stage, by the warrant of a justice of peace, and committed to Bridewell, as coming under the penalty of the vagrant act. The legality of the commitment was disputed; a trial ensued; it was decided, that the comedian being a housekeeper, and having a vote for electing members of parliament, did not come within the description of the said act; and he was discharged amidst the loud acclamations of the populace. The issue of this trial gave full scope to the licentiousness of the stage, and took away all hopes of restraining the number of playhouses.

"From this representation of the state of the drama, it is evident, that some reformation was indispensably necessary. The minister himself had long seen that necessity. The obloquy which pursued him was not confined to the press; the stage was made the vehicle of the most malignant sarcasms, not expressed in the elevated tone of tragedy, or couched in sentiments and language perceptible only to men of refined understandings; but his person was brought on the stage, his actions maligned, his measures misrepresented and arraigned, and his conduct made the sport of the populace, in all the petulance of vulgar farce. He was unwilling, however, to make this a personal consideration, but rather a public and national question, in which the good of the law, constitution, religion, and morality, was intimately involved; and such an opportunity seemed to present itself, when Sir John Barnard brought in a Bill 'To restrain the number of houses for playing 'of interludes, and for the better regulating of 'common players of interludes.'

"On representing the mischiefs which theatres had done to the city of London, by corrupting youth, encouraging vice and debauchery, and greatly prejudicing trade, the proposal was at first received with contempt and ridicule, until it was seconded by Sandys, Pulteney, and warmly supported by the minister himself. It was observed by a member, in the course of the debate, that there were at that time not less than six theatres in London. The House being fully convinced of the necessity of the Bill, leave was given to bring it in without a single dissenting voice. It was accordingly, on the 3d of April, presented, read the first time, and ordered to be printed; notwithstanding petitions against it from the proprietor of the theatre in Goodman's Fields, and from the master and comptroller of the revels. It was read a second time on the 14th of April.

"The minister conceived this to be a favourable opportunity of checking the daring abuse of theatrical representation, which had arrived to a most extravagant height. It was proposed to insert a clause, to ratify and confirm, if not enlarge the power of the lord chamberlain, in licensing plays, and at the same time insinuated to the House, that unless this addition was made, the king would not pass it. But sir John Barnard strongly objected to this clause. He declared that the power of the lord chamberlain was already too great, and had been often wantonly exercised, particularly in the prohibition of Polly. He should therefore withdraw this Bill, and wait for another opportunity of introducing it, rather than establish by law a power in a single officer so much under the direction of the crown; a power which might be exercised in an arbitrary manner, and consequently attended with mischievous effects.

"The attempt of sir John Barnard having thus failed, the immorality of the drama increased, and the most indecent, seditious, and

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were long debates, and great opposition to this Bill in every step it made. In the House of Lords,

The Earl of *Chesterfield* spoke against the Bill as follows:

My Lords; The Bill now before you I

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blasphemous pieces were performed, and resorted to with incredible eagerness. Among those who principally supported this low ribaldry was the celebrated Henry Fielding, who, though he never shone in the higher line of perfect comedy, wrote these dramatic satires in a stile agreeable to the populace. One of his pieces, called Pasquin, which was acted in the theatre at the Haymarket, ridiculed, in the grossest terms, the three professions of divinity, law, and physic, and gave general offence to persons of morality. 'Religion, laws, government, priest, judges, and ministers,' observes Colley Cibber, 'were laid flat at the feet 'of the Herculean satirist, this Drawcansir in 'wit, who spared neither friend nor foe, who to 'to make his poetical fame immortal, like ano-'ther Erostratus, set fire to his stage, by writ-'ing up to an act of parliament to demolish it.'

"This piece was peculiarly offensive to the minister, because it contained many personal allusions and invectives. But as he was not willing to employ the power of government in a mere temporary prohibition of this and other performances, which would have been extremely unpopular, and not attended with permanent effects, he wished to avail himself of the present flagrant abuse, to prevent future representations so disgraceful and indecorous.

"In the course of the session, an opportunity offered, which he did not omit to seize. Giffard, the manager of Goodman's Fields theatre, brought to him a farce, called 'The 'Golden Rump,' which had been proposed for exhibition; but it is uncertain whether the intentions of the manager were to request his advice on this occasion, or to extort a sum of money to prevent its representation.

"The minister, however, paid the profits which might have accrued from the performance, and detained the copy. He then made extracts of the most exceptionable passages, abounding in profaneness, sedition, and blasphemy, and submitted them to several members of both parties, who were shocked at the extreme licentiousness of the piece, and promised their support to remedy the evil. With their advice, concurrence, and promise of cooperation, he read the several extracts to the House, and a general conviction prevailed, of the necessity of putting a check to the representation of such horrid effusions of treason and blasphemy. He acted, however, with his usual prudence on this occasion. He did not bring forward, as is generally supposed, an act for subjecting all plays to the licence of the lord chamberlain, and restraining the number of playhouses, but contrived to introduce it by amending the vagrant act.

"The Bill was called, 'A Bill to explain 'and amend so much of an act, made in the '12th year of the reign of queen Anne, intituled, An Act for reducing the laws relating 'to rogues, vagabonds, sturdy beggars, and vagrants, and sending them whither they ought 'to be sent, as relates to the common players 'of interludes.' Leave was accordingly given to bring it in, and Pelham, Dodington, Howe, the Master of the Rolls, the Attorney and Solicitor General, were ordered to prepare it. During its rapid progress through the House, certain amendments were made, and two clauses were added. The first, which occasioned so much obloquy, empowered the lord chamberlain to prohibit the representation of any theatrical performances, and compelled all persons to send copies of any new plays, parts added to old plays, prologues and epilogues, fourteen days before they were acted, and not to perform them, under forfeiture of £.50, and of the licence of the house. The second, which is said to have been added at the instigation of sir John Barnard, operated in restraining the number of playhouses, by enjoining, that no person should be authorised to act except within the liberties of the city of Westminster, and where the King should reside.

"The Bill is generally said to have been warmly opposed in both Houses; but it is remarkable that no trace (excepting the speech of lord Chesterfield) of this opposition is to be found in the periodical publications of the times, which are filled with accounts of the other debates. It is also certain, that not a single Petition was presented against it, and not a single division appears in the journals of either House. Striking proofs, if any were still wanting, to shew the general opinion in favour of its necessity.

"The dispatch with which it was carried through both Houses, affords additional evidence that it scarcely met with any resistance. The Bill was ordered to be brought in on the 20th of May, read the 24th, a second time on 25th, and committed to the whole House; ordered to be reported, with amendments, on the 26th, reported on the 27th, all amendments but one agreed to, and the Bill ordered to be engrossed; passed on the first of June, and Mr. Pelham ordered to carry it to the Lords. It was read the first time on the same day, the second time on the 2d, after a debate, carried in the affirmative; the third time on the 6th, returned to the Commons on the 8th, without any amendments, and received the royal assent on the 21st.

"It is most probable that lord Chesterfield alone spoke against the Bill, and that his speech, so deservedly admired, has been repeated by subsequent writers who copy each other, until a violent opposition to the measure has been supposed, which never existed."

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apprehend to be of a very extraordinary, a very dangerous nature. It seems designed not only as a restraint on the licentiousness of the stage, but it will prove a most arbitrary restraint on the liberty of the stage; and, I fear, it looks yet farther, I fear it tends towards a restraint on the liberty of the press, which will be a long stride towards the destruction of liberty itself. It is not only a Bill, my Lords, of a very extraordinary nature, but it has been brought in at a very extraordinary season, and pushed with most extraordinary dispatch. When I considered how near it was to the end of the session, and how long this session had been protracted beyond the usual time of the year; when I considered that this Bill passed through the other House with so much precipitancy, as even to get the start of a Bill which deserved all the respect, and all the dispatch, the forms of either House of Parliament could admit of, it set me upon inquiring, what could be the reason for introducing this Bill at so unseasonable a time, and pressing it forward in a manner so very singular and uncommon. I have made all possible inquiry, and as yet, I must confess, I am at a loss to find out the great occasion. I have, it is true, learned from common report without doors, that a most seditious, a most heinous farce had been offered to one of the theatres, a farce for which the authors ought to be punished in the most exemplary manner. But what was the consequence? The master of that theatre behaved as he was in duty bound, and as common prudence directed. He not only refused to bring it upon the stage, but carried it to a certain honourable gentleman in the administration, as the surest method of having it absolutely suppressed. Could this be the occasion of introducing such an extraordinary Bill, at such an extraordinary season, and pushing it in so extraordinary a manner? Surely no. The dutiful behaviour of the players, the prudent caution they shewed upon that occasion, can never be a reason for subjecting them to such an arbitrary restraint: it is an argument in their favour, and a material one, in my opinion, against the Bill. Nay farther, if we consider all circumstances, it is to me a full proof that the laws now in being are sufficient for punishing those players who shall venture to bring any seditious libel upon the stage, and consequently sufficient for deterring all players from acting any thing that may have the least tendency towards giving a reasonable offence.

I do not, my Lords, pretend to be a lawyer, I do not pretend to know perfectly the power and extent of our laws, but I have conversed with those that do, and by them I have been told, that our laws are sufficient for punishing any man that shall dare to represent upon the stage, what may appear, either by the words or the representation, to be blasphemous, seditious, or immoral. I must own indeed, I have observed of late a remarkable licentiousness in the stage. There have but very lately been two plays acted, which one would have thought should have given the greatest offence, and yet both were suffered to be often represented without disturbance, without censure. In one*, the author thought fit to represent the three great professions, religion, physic, and law, as inconsistent wish common sense. In the other†, a most tragical story was brought upon the stage, a catastrophe too recent, too melancholy, and of too solemn a nature, to be heard of any where but from the pulpit. How these pieces came to pass unpunished, I do not know; if I am rightly informed, it was not for want of law, but for want of prosecution, without which no law can be made effectual. But if there was any neglect in this case, I am convinced it was not with a design to prepare the minds of the people, and to make them think a new law necessary.

Our stage ought, my Lords, certainly to be kept within due bounds, but for this, our laws, as they stand at present, are sufficient; if our stage players at any time exceed those bounds, they ought to be prosecuted, they may be punished; we have precedents, we have examples of persons having been punished for things less criminal than either of the two pieces I have mentioned. A new law must therefore be unnecessary, and, in the present case it cannot be unnecessary without being dangerous; every unnecessary restraint on licentiousness is a fetter upon the legs, is a shackle upon the hands of liberty. One of the greatest blessings we enjoy, one of the greatest blessings a people, my Lords, can enjoy, is liberty; but every good in this life has its alloy of evil: licentiousness is the alloy of liberty; it is an ebullition, an excrescence; it is a speck upon the eye of the

* Pasquin, a comedy.
† King Charles the First, a tragedy.

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political body, which I can never touch but with a gentle, with a trembling hand, lest I destroy the body, lest I injure the eye upon which it is apt to appear. If the stage becomes at any time licentious, if a play appears to be a libel upon the government, or upon any particular man, the King's courts are open, the law is sufficient for punishing the offender; and in this case the person injured has a singular advantage; he can be under no difficulty to prove who is the publisher; the players themselves are the publishers, and there can be no want of evidence to convict them.

But, my Lords, suppose it true, that the laws now in being are not sufficient for putting a check to, or preventing the licentiousness of the stage; suppose it absolutely necessary some new law should be made for that purpose; yet it must be granted, that such a law ought to be maturely considered, and every clause, every sentence, nay, every word of it, well weighed and examined, lest, under some of those methods presumed or pretended to be necessary for restraining licentiousness, a power should lie concealed, which might be afterwards made use of for giving a dangerous wound to liberty. Such a law ought not to be introduced at the close of a session, nor ought we, in the passing of such a law, to depart from any of the forms prescribed by our ancestors for preventing deceit and surprise. There is such a connection between licentiousness and liberty, that it is not easy to correct the one, without dangerously wounding the other; it is extremely hard to distinguish the true limit between them; like a changeable silk, we can easily see there are two different colours, but we cannot easily discover where the one ends, or where the other begins. There can be no great or immediate danger from the licentiousness of the stage: I hope it will not be pretended, that our government may, before next winter, be overturned by such licentiousness, even though our stage were at present under no sort of legal controul. Why then may we not delay till next session passing any law against the licentiousness of the stage? Neither our government can be altered, nor our constitution overturned, by such a delay; but by passing a law rashly and unadvisedly, our constitution may at once be destroyed, and our government rendered arbitrary. Can we then put a small, a short lived inconvenience in the balance with perpetual slavery? Can it be supposed, that a parliament of Great Britain will so much as risk the latter, for the sake of avoiding the former.

Surely, my Lords, this is not to be expected, were the licentiousness of the stage much greater than it is; were the insufficiency of our laws more obvious than can be pretended; but when we complain of the licentiousness of the stage, and of the insufficiency of our laws, I fear we have more reason to complain of bad measures in our polity, and a general decay of virtue and morality among the people. In public as well as private life, the only way to prevent being ridiculed or censured, is to avoid all ridiculous or wicked measures, and to pursue such only as are virtuous and worthy. The people never endeavour to ridicule those they love and esteem, nor will they suffer them to be ridiculed: if any one attempts it, the ridicule returns upon the author; he makes himself only the object of public hatred and contempt. The actions or behaviour of a private man may pass unobserved, and consequently unapplauded, uncensured; but the actions of those in high stations, can neither pass without notice, nor without censure or applause; and therefore an administration, without esteem, without authority among the people, let their power be never so great, let their power be never so arbitrary, will be ridiculed; the severest edicts, the most terrible punishments, cannot prevent it. If any man therefore thinks he has been censured, if any man thinks he has been ridiculed, upon any of our public theatres, let him examine his actions, he will find the cause; let him alter his conduct, he will find a remedy. As no man is perfect, as no man is infallible, the greatest may err, the most circumspect may be guilty of some piece of ridiculous behaviour. It is not licentiousness, it is an useful liberty always indulged the stage in a free country, that some great men may there meet with a just reproof, which none of their friends will be free enough, or rather faithful enough, to give them. Of this we have a famous instance in the Roman history. The great Pompey, after the many victories he had obtained, and the great conquests he had made, had certainly a good title to the esteem of the people of Rome; yet that great man, by some error in his conduct, became an object of general dislike; and, therefore, in the representation of an old play, when Diphilus, the actor, came to repeat these

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words, 'Nostra miseria tu es Magnus,' the audience immediately applied them to Pompey, who at that time was as well known by the name Magnus, as by the name Pompey, and were so highly pleased with the satire, that, as Cicero says, they made the actor repeat the words a hundred times over. An account of this was immediately sent to Pompey, who, instead of resenting it as an injury, was so wise as to take it for a just reproof; he examined his conduct, he altered his measures, he regained by degrees the esteem of the people, and then he neither feared the wit, nor felt the satire of the stage. This is an example which ought to be followed by great men in all countries. Such accidents will often happen in every free country, and many such would probably have afterwards happened at Rome, if they had continued to enjoy their liberty; but this sort of liberty in the stage came soon after, I suppose, to be called licentiousness; for we are told that Augustus, after having established his empire, restored order in Rome by restraining licentiousness. God forbid! we should in this country have order restored, or licentiousness restrained, at so dear a rate as the people of Rome paid for it to Augustus.

In the case I have mentioned, my Lords, it was not the poet that wrote, for it was an old play; nor the players that acted, for they only repeated the words of the play; it was the people who pointed the satire; and the case will always be the same: when a man has the misfortune to incur the hatred or contempt of the people, when public measures are despised, the audience will apply what never was, what could not be designed as a satire on the present times. Nay, even though the people should not apply, those who are conscious of guilt, those who are conscious of the wickedness or weakness of their conduct, will take to themselves what the author never designed. A public thief is as apt to take the satire, as he is apt to take the money, which was never designed for him. We have an instance of this in the case of a famous comedian of the last age; a comedian, who was not only a good poet, but an honest man, and a quiet and good subject: the famous Moliere, when he wrote his Tartuffe, which is certainly an excellent and a good moral comedy, did not design to satirize any great man of that age; yet a great man in France at that time, took it to himself, and fancied the author had taken him as a model for one of the principal, and one of the worst characters in that comedy; by good luck he was not the licenser, otherwise the kingdom of France had never had the pleasure, the happiness I may say, of seeing that play acted; but when the players first proposed to act it at Paris, he had interest enough to get it forbid. Moliere, who knew himself innocent of what was laid to his charge, complained to his patron the prince of Conti, that as his play was designed only to expose hypocrisy, and a false pretence to religion, it was very hard it should be forbid being acted; when at the same time they were suffered to expose religion itself every night publicly upon the Italian stage: to which the prince wittily answered, 'It is true, Moliere, Harlequin 'ridicules Heaven, and exposes religion; 'but you have done much worse—you 'have ridiculed the first minister of reli-'gion.'

I am as much for restraining the licentiousness of the stage, and every other sort of licentiousness, as any of your lordships can be; but, my Lords, I am, I shall always be extremely cautious and fearful of making the least incroachment upon liberty; and therefore, when a new law is proposed against licentiousness, I shall always be for considering it deliberately and maturely, before I venture to give my consent to its being passed. This is a sufficient reason for my being against passing this Bill at so unseasonable a time, and in so extraordinary a manner; but I have many reasons for being against passing the Bill itself, some of which I shall beg leave to explain to your lordships. The Bill, my Lords, at first view, may seem to be designed only against the stage; but to me it plainly appears to point somewhere else. It is an arrow that does but glance upon the stage, the mortal wound seems designed against the liberty of the press. By this Bill you prevent a play's being acted, but you do not prevent its being printed; therefore, if a licence should be refused for its being acted, we may depend on it, the play will be printed. It will be printed and published, my Lords, with the refusal in capital letters on the title page. People are always fond of what is forbidden. *Libri prohibiti* are in all countries diligently and generally sought after. It will be much easier to procure a refusal, than it ever was to procure a good house, or a good sale; therefore we may expect, that plays will be wrote on purpose to have a

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refusal; this will certainly procure a good house, or a good sale. Thus will satires be spread and dispersed through the whole nation, and thus every man in the kingdom may, and probably will, read for sixpence, what a few only could have seen acted, and that not under the expence of half-a-crown. We shall then be told, What! will you allow an infamous libel to be printed and dispersed, which you would not allow to be acted? You have agreed to a law for preventing its being acted, can you refuse your assent to a law for preventing its being printed and published? I should really, my Lords, be glad to hear what excuse, what reason one could give for being against the latter, after having agreed to the former; for, I protest, I cannot suggest to myself the least shadow of an excuse. If we agree to the Bill now before us, we must, perhaps next session, agree to a Bill for preventing any plays being printed without a licence. Then satires will be wrote by way of novels, secret histories,, dialogues, or under some such title; and thereupon we shall be told, What! will you allow an infamous libel to be printed and dispersed, only because it does not bear the title of a play? Thus, my Lords, from the precedent now before us, we shall be induced, nay we can find no reason for refusing, to lay the press under a general licence, and then we may bid adieu to the liberties of Great Britain.

But suppose, my Lords, it were necessary to make a new law for restraining the licentiousness of the stage, which I am very far from granting, yet I shall never be for establishing such a power as is proposed by this Bill. If poets and players are to be restrained, let them be restrained as other subjects are, by the known laws of their country; if they offend, let them be tried, as every Englishman ought to be, by God and their country. Do not let us subject them to the arbitrary will and pleasure of any one man. A power lodged in the hands of one single man, to judge and determine, without any limitation, without any controul or appeal, is a sort of power unknown to our laws, inconsistent with our constitution. It is a higher, a more absolute power than we trust even to the King himself; and, therefore, I must think, we ought not to vest any such power in his Majesty's lord chamberlain. When I say this, I am sure, I do not mean to give the least, the most distant offence to the noble duke* who now fills the post of lord chamberlain: his natural candour and love of justice, would not, I know, permit him to exercise any power but with the strictest regard to the rules of justice and humanity. Were we sure his successors in that high office would always be persons of such distinguished merit, even the power to be established by this Bill could give me no further alarm, than lest it should be made a precedent for introducing other new powers of the same nature. This, indeed, is an alarm which cannot be avoided, which cannot be prevented by any hope, by any consideration: It is an alarm which, I think, every man must take, who has a due regard to the constitution and liberties of his country.

I shall admit, my Lords, that the stage ought not, upon any occasion, to meddle with politics, and for this very reason, among the rest, I am against the Bill now before us. This Bill will be so far from preventing the stage's meddling with politics, that, I fear, it will be the occasion of its meddling with nothing else; but then it will be a political stage *ex parte*. It will be made subservient to the politics and the schemes of the court only. The licentiousness of the stage will be encouraged instead of being restrained; but, like court journalists, it will be licentious only against the patrons of liberty, and the protectors of the people. Whatever man, whatever party opposes the court in any of their most destructive schemes, will, upon the stage, be represented in the most ridiculous light the hirelings of a court can contrive. True patriotism, and love of public good, will be represented as madness, or as a cloak for envy, disappointment, and malice; whilst the most flagitious crimes, the most extravagant vices and follies, if they are fashionable at court, will be disguised and dressed up in the habit of the most amiable virtues. This has formerly been the case: In king Charles 2d's days, the playhouse was under a licence. What was the consequence? The playhouse retailed nothing but the politics, the vices, and the follies of the court: not to expose them; no, but to recommend them; though it must be granted their politics were often as bad as their vices, and much more pernicious than their other follies. It is true, the court had, at that time, a great deal of wit; it was then, indeed, full of men of true wit and and great humour; but it was the more dangerous; for the courtiers did then, as thorough-paced courtiers always will do, they sacrificed

* The duke of Grafton.

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their honour, by making their wit and their humour subservient to the court only; and what made it still more dangerous, no man could appear upon the stage against them. We know that Dryden, the poet-laureat of that reign, always represents the cavaliers as honest, brave, merry fellows, and fine gentlemen: Indeed his fine gentleman, as he generally draws him, is an atheistical, lewd, abandoned fellow, which was at that time, it seems, the fashionable character at court. On the other hand, he always represents the dissenters as hypocritical, dissembling rogues, or stupid, senseless boobies. When the court had a mind to fall out with the Dutch, he wrote his Amboyna*, in which he represents the Dutch as a pack of avaricious, cruel, ungrateful rascals: and when the Exclusion Bill was moved in parliament, he wrote his Duke of Guise †, in which those who were for preserving and securing the religion of their country, were exposed under the character of the duke of Guise and his party, who leagued together for excluding Henry 4 of France from the throne, on account of his religion. The city of London, too, was made to feel the partial and mercenary licentiousness of the stage at that time; for the citizens having at that time, as well as now, a great deal of property, they had a mind to preserve that property, and therefore they opposed some of the arbitrary measures which were then begun, but pursued more openly in the following reign; for which reason they were then always represented upon the stage, as a parcel of designing knaves, dissembling hypocrites, griping usurers,—and cuckolds into the bargain.

My Lords, the proper business of the stage, and that for which only it is useful, is to expose those vices and follies, which the laws cannot lay hold of, and to recommend those beauties and virtues, which ministers and courtiers seldom either imitate or reward; but by laying it under a licence, and under an arbitrary court-licence too, you will, in my opinion, entirely pervert its use; for though I have the greatest esteem for that noble duke in whose hands this power is at present designed to fall, though I have an entire confidence in his judgment and impartiality; yet I may suppose that a leaning towards the fashions of a court is sometimes hard to be avoided. It may be very difficult to make one who is every day at court believe that to be a vice or folly, which he sees daily practised by those he loves and esteems. By custom even deformity itself becomes familiar, and at last agreeable. To such a person, let his natural impartiality be never so great, that may appear to be a libel against the court, which is only a most just and a most necessary satire upon the fashionable vices and follies of the court. Courtiers, my Lords, are too polite to reprove one another; the only place where they can meet with any just reproof, is a free, though not a licentious stage; and as every sort of vice and folly, generally in all countries, begins at court, and from thence spreads through the country, by laying the stage under an arbitrary court-licence, instead of leaving it what it is, and always ought to be, a gentle scourge for the vices of great men and courtiers, you will make it a canal for propagating and conveying their vices and follies through the whole kingdom.

From hence, my Lords, I think, it must appear, that the Bill now before us cannot so properly be called a Bill for restraining licentiousness, as it may be called a Bill for restraining the liberty of the stage, and for restraining it too in that branch which in all countries has been the most useful; therefore I must look upon the Bill as a most dangerous encroachment upon liberty in general. Nay farther, my Lords, it is not only an encroachment upon liberty, but it is likewise an encroachment on property. Wit, my Lords, is a sort of property: it is the property of those that have it, and too often the only property they have to depend on. It is, indeed, but a precarious dependence. Thank God! we, my Lords, have a dependence of another kind; we have a much less precarious support, and therefore cannot feel the inconveniencies of the Bill now before us; but it is our duty to encourage and protect wit, whosoever's property it may be. Those gentlemen who have any such property, are all, I hope, our friends: do not let us subject them to

* "This is not quite exact. The Dutch War began in 1672. The play was acted and printed in 1673." Dr. Maty.

† "This was certainly a party-play, though the occasion of it may be doubted. It made its appearance in 1683, and was violently attacked by the Whigs. If lord Chesterfield had implicitly adopted the opinions of his grandfather Halifax, he would scarcely have spoken, as he does here, of the Exclusion Bill." Dr. Maty.

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any unnecessary or arbitrary restraint. I must own, I cannot easily agree to the laying of any tax upon wit; but by this Bill it is to be heavily taxed, it is to be excised; for if this Bill passes, it cannot be retailed in a proper way without a permit; and the lord chamberlain is to have the honour of being chief gauger, supervisor, commissioner, judge and jury: but what is still more hard, though the poor author, the proprietor I should say, cannot perhaps dine till he has found out and agreed with a purchaser; yet before he can propose to seek for a purchaser, he must patiently submit to have his goods rummaged at this new excise-office, where they may be detained for fourteen days, and even then he may find them returned as prohibited goods, by which his chief and best market will be for ever shut against him; and that without any cause, without the least shadow of reason, either from the laws of his country, or the laws of the stage.

These hardships, this hazard, which every gentleman will be exposed to who writes any thing for the stage, must certainly prevent every man of a generous and free spirit from attempting any thing in that way; and as the stage has always been the proper channel for wit and humour, therefore, my Lords, when I speak against this Bill, I must think I plead the cause of wit, I plead the cause of humour, I plead the cause of the British stage, and of every gentleman of taste in the kingdom. But it is not, my Lords, for the sake of wit only; even for the sake of his Majesty's lord chamberlain, I must be against this Bill. The noble duke who has now the honour to execute that office, has, I am sure, as little an inclination to disoblige as any man; but if this Bill passes, he must disoblige, he may disoblige some of his most intimate friends. It is impossible to write a play, but some of the characters, or some of the satire, may be interpreted so as to point at some person or another, perhaps at some person in an eminent station: When it comes to be acted, the people will make the application, and the person against whom the application is made, will think himself injured, and will, at least privately, resent it: at present this resentment can be directed only against the author; but when an author's play appears with my lord chamberlain's passport, every such resentment will be turned from the author, and pointed directly against the lord chamberlain, who by his stamp made the piece current. What an unthankful office are we therefore by this Bill to put upon his Majesty's lord chamberlain! an office which can no way contribute to his honour or profit, and yet such a one as must necessarily gain him a great deal of ill-will, and create him a number of enemies.

The last reason I shall trouble your lordships with for my being against the Bill, is that, in my opinion, it will in no way answer the end proposed: I mean the end openly proposed, and, I am sure, the only end which your lordships propose. To prevent the acting of a play, which has any tendency to blasphemy, immorality, sedition, or private scandal, can signify nothing, unless you can likewise prevent its being printed and published. On the contrary, if you prevent its being acted, and admit of its being printed and published, you will propagate the mischief: your prohibition will prove a bellows, which will blow up the fire you intend to extinguish. This Bill can, therefore, be of no use for preventing either the public or the private injury intended by such a play; and consequently can be of no manner of use, unless it be designed as a precedent, as a leading step towards another for subjecting the press likewise to a licenser. For such a wicked purpose it may indeed, be of great use; and in that light, it may most properly be called a step towards arbitrary power.

Let us consider, my Lords, that arbitrary power has seldom or never been introduced into any country at once. It must be introduced by slow degrees, and as it were step by step, lest the people should perceive its approach. The barriers and fences of the people's liberty must be plucked up one by one, and some plausible pretences must be found for removing or hood-winking, one after another, those sentries who are posted by the constitution of a free country, for warning the people of their danger. When these preparatory steps are once made, the people may, then, indeed, with regret see slavery and arbitrary power making long strides over their land, but it will then be too late to think of preventing or avoiding the impending ruin. The stage, my Lords, and the press, are two of our out-sentries; if we remove them, if we hood-wink them, if we throw them in fetters, the enemy may surprise us. Therefore I must look upon the Bill now before us as a step, and a most necessary step too, for introducing arbi-

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trary power into this kingdom: it is a step so necessary, that if ever any future ambitious king, or guilty minister, should form to himself so wicked a design, he will have reason to thank us, for having done so much of the work to his hand; but such thanks, or thanks from such a man, I am convinced, every one of your lordships would blush to receive, and scorn to deserve*.

The King's Speech at the Close of the Session.] June 21. The King came to the House of Lords, and put an end to the session, with the following Speech to both Houses:

"My Lords and Gentlemen,

"I am come to put an end to this session of parliament, that you may be at liberty to retire into your several countries, and, in your proper stations, to promote the peace and welfare of the kingdom.

"I return you my thanks for the particular proofs you have given me of your affection and regard to my person and honour; and hope, the wisdom and justice, which you have shewn upon some extraordinary incidents, will prevent all thoughts of the like attempts for the future. The conduct of this parliament has been so uniform in all your deliberations upon public affairs, that it would be as unjust not to acknowledge it, as it is unnecessary to enumerate the several particulars.

"Gentlemen of the House of Commons,

"Your care, as well in raising the Supplies necessary for the service of the current year, as in doing it in the manner least grievous and burthensome to my people, is a fresh instance of your equal concern for the support of my government, and for the true interest of your country.

"My Lords and Gentlemen,

"You cannot be insensible, what just scandal and offence the Licentiousness of the present times, under the colour and disguise of Liberty, gives to all honest and sober men, and how absolutely necessary it is to restrain this excessive abuse, by a due and vigorous execution of the laws; defiance of all authority, contempt of magistracy, and even resistance of the laws, are become too general, although equally prejudicial to the prerogative of the crown, and the liberties of the people, the support of the one being inseparable from the protection of the other. I have made the laws of the land the constant rule of my actions; and I do, with reason, expect in return all that submission to my authority and government, which the same laws have made the duty, and shall always be the interest of my subjects."

Then the Lord Chancellor, by the King's command, prorogued the parliament to the 4th of August.

PRINCIPAL OCCURRENCES DURING THE RECESS—*Relation of the Differences in the Royal Family—Disquiets of the Nation on Account of the Gin Act—And the Spanish Depredations—Death of Queen Caroline.*] On the 31st of July, the Princess of Wales, who was very far advanced in her pregnancy, but not thought to be so near her time as she really was, being with their Majesties and the rest of the royal family at Hampton Court, but without any midwife attending her, felt the pains of child-birth, which came so suddenly and so violently upon her, that the Prince, who was with her, was obliged to hurry her to London, where she was that night delivered of a daughter, the Princess Augusta. Next morning, she was visited by her Majesty, and the ladies of her court. A few days after, their Majesties received the compliments of the city of London, and other great bodies in the kingdom, upon that joyful occasion, and they were accepted very graciously.*

It would be too great presumption to say that their Majesties had, at this time, conceived any prepossession against his

* "This Speech," says Dr. Maty in his Memoirs of Lord Chesterfield, "was received with universal applause; and, though printed incorrectly, and without the assistance of his own finishing hand, it has stood the test of time, and will, probably, be handed down to posterity, as one of the finest specimens of British eloquence. Though it did not hinder the Bill from passing into a law, it has contributed to prevent the abuse that might have been made of it, in restraining the powers of genius, and serving the purposes of ministerial pique or personal dislike."

* *The following very interesting Account of the Differences in the Royal Family, is taken from Mr. Coxe's Memoirs of Sir Robert Walpole:*

"The royal family being at Hampton Court, the Princess of Wales was seized with the pangs of child-birth, and the Prince, without the least intimation to the King and Queen, hurried her away to St. James's, where she was that night delivered of a Princess, before the Queen, or any of the officers of state, who were accustomed to be present, could arrive.

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Royal Highness for the manner in which an augmentation of his revenue had been pushed for in the House of Commons; but it is certain that his Majesty, as appeared by his Messages to the two Houses on that occasion, thought the Prince was forming connections no way favourable to the views of his ministry. Be this as it will, the Prince certainly suspected that their Majesties would take amiss his abrupt departure from Hampton Court; for when the Queen and the Prin-

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"The Prince apologized for his abrupt departure to the Queen, who went the next morning to visit the Princess. 'He observed, that the suddenness with which his wife was seized, rendered it necessary to obtain immediate assistance, and that it was thought most prudent to return to London, where good assistance was to be obtained, than wait till the physicians and midwives could arrive at Hampton Court, which might be too late; he entreated the Queen to explain to the King the motives which induced him to retire from Hampton Court, without intimating his design, which the hurry of his departure had alone prevented; and he professed also his intention of waiting on the King that morning. The Queen advised him to delay this visit for a few days, in which the Prince acquiesced. He repeated the same apology to sir Robert Walpole and lord Harrington, who had come by the King's command to be present at the birth. The King, however, was not moved by this justification, but resolved to express his resentment in a manner no less public, than that in which he conceived the indignity was offered. A draught of a message was accordingly prepared by sir Robert Walpole, and submitted by him to the consideration of the lord chancellor, lord Wilmington, and lord Harrington. The chancellor, with a view to shew great tenderness to the situation of the Princess, and to gain time for conciliation, before the most aggravating circumstances of the rupture were rendered permanent, and incapable of modification, by being committed to writing, disapproved the draught, and proposed another in more soft and gentle terms.

"'The King hath commanded me to acquaint your royal highness, that his Majesty is most heartily rejoiced at the safe delivery of the Princess, but that on account of certain circumstances in your royal highness's behaviour relating to that event, which have given his Majesty just offence, he thinks it not proper to see you, with the particular reasons whereof he will cause your royal highness to be acquainted in due time.'

"Lord Wilmington, who seldom declared himself explicitly on any subject, supported, however, with unusual warmth, the original draught: and as lord Harrington was silent, the chancellor's alteration was rejected, and the original carried. On the 3d of August, it was sent to the Prince by lord Essex, the lord of the bedchamber in waiting, and contained these words:

"'The King has commanded me to acquaint your royal highness, that his Majesty most heartily rejoices at the safe delivery of the Princess, but that your carrying away her royal highness from Hampton Court, the then residence of the King, the Queen and the family, under the pains, and certain indications of immediate labour, to the imminent danger and hazard both of the Princess and her child, after sufficient warnings for a week before, to have made the necessary preparations for this happy event, without acquainting his Majesty or the Queen with the circumstances the Princess was in, or giving them the least notice of your departure, is looked upon by the King to be such a deliberate indignity, offered to himself and to the Queen, that he has commanded me to acquaint your royal highness, that he resents it to the highest degree.'

"In reply to this message, the Prince wrote a letter, in which, after expressing his mortification, at having displeased the King, he justified his conduct, repeated the same motives as he had stated to the Queen in person, and requested permission to wait upon the King the next morning. This request having been rejected, the Prince repeated, in another submissive letter, his earnest hopes of being restored to favour. No answer was returned to this application, but a message from the King was conveyed by the earl of Dunmore, appointing the baptism to be performed on the 29th, declaring, that he should send the lord chancellor to stand god-father as his proxy, the Queen's lady of the bedchamber for the Queen, and desiring the Princess to appoint one of her ladies of the bedchamber to represent the dowager duchess of Saxe Gotha, the other god-mother.

"The Prince took this opportunity to reiterate, both to the King and Queen, his application for pardon, with increasing earnestness and humility. His entreaties, however, had no effect. The King adopted the violent resolution of making a total separation between his family and that of the Prince, by dismissing him from his residence in the palace of St. James's. In taking this resolution, he was, if not confirmed, at least not opposed by the minister.

"The prudence and moderation of the chancellor saw the danger of such a separation. However disagreeable his interposition might be, both to the King and Walpole, he thought it his duty to prevent, if possible, such extremities. With this view, he went over to New Park, and had a long and interesting conference with sir Robert Walpole. [This conference is given verbatim from lord Hardwicke's interesting narrative before mentioned.]

"He laid it down as a principle, that in this nice affair, two great points were always to be

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cesses came to the birth, he laboured to persuade them, that all that had happened was through the uncertainty of the physicians and midwife as to the time of the delivery of the Princess; and he repeated the same apology to lord Harrington and sir Robert Walpole, who attended the birth on the part of his Majesty, but arrived too late to be present at it. Notwithstanding this justification, his Royal Highness, who then resided at the palace of St. James's, received, on August the

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pursued. First, the real and essential interest of the King and his family, in which the whole of the kingdom was involved; and next, the support of that authority and reverence, which was due to his Majesty. That it was the duty of his ministers and servants to endeavour to combine both these views, and in their conduct not to lose sight of either. That he could not help thinking, that if there was a disposition to it, a reconciliation might be effected consistently with both; but if that should be found impossible, a total separation must indeed be submitted to. However, he begged leave to lay before him several considerations, which seemed material in this great question, some whereof distinguished the case from that of the quarrel in the late reign, and made the present breach more formidable.

"1. That it ought to be considered what influence it would have on the side of the question, which had been once moved in parliament, and was expected to be brought there again, viz. the Prince's demand of a larger allowance, and this upon different suppositions. It appeared to him, that if the King should be finally in the right, and the Prince continue, as he was certainly at first, on the affair of the departure, in the wrong, it would strengthen the King as to that question; for nobody could, with any shadow of reason, maintain that the King could with decency be addressed to increase his son's allowance, while he was standing out in defiance. But on the other hand, it must be attended to, that this offence was such as to admit of a satisfaction between a father and a son; and if the world should think the Prince had made a proper submission, and yet the King turn him out of doors, it would strengthen the Prince in his demand; since it might then be said, that the King had causelessly obliged him to live by himself, with an increase of family, at a great expence. He added, that it must be expected that even those who least wished a reconciliation, would advise him to make such a submission, when they were sure it could not, or would not, be accepted.

"2. That in the next place, the situation and circumstances of the royal family deserved the greatest attention. In the late reign, the difference concerned only the King and Prince; there were no other children to be affected by it. The moment the breath was out of the late King's body, it was at an end as to the royal family, though particular subjects might feel its effects. That now the case was far different. A queen consort, the duke and four princesses, not to include the princess of Orange, must necessarily be, to a degree, involved in it. If the Prince should survive his father, he must, and by the course of law and nature, ought to reign. All these will be more or less in his power. The Queen possibly least of all is; but how far the honey-moon of a new reign may carry men as to her large jointure, no one can foresee. The others absolutely. Yet these must now, as they justly deserve, live at court in the sun-shine of the King and Queen's favour, the Prince being excluded. This will naturally breed an alienation of affection, great envying and much ill blood, which may break out into fatal consequences when the Prince shall find himself their sovereign. Add to this, that it is not probable that any settlement will ever be obtained from the parliament to make cadets of the royal family, independant of any person who shall wear the crown.

"3. He next considered the case of the Prince's children. Either the King must take the custody of them, or leave them with his royal highness. If he should take them, having a favourite younger son, and several daughters, justly dear to him, what jealousies and suspicions may not arise in case of accidents. Malice may even suggest what was once believed in France, of the late duke of Orleans. If the King should suffer these branches of the royal family to remain with the Prince, will it not greatly weaken the former, and strengthen the latter? And at length, they will be bred up under the same influence which is now objected to their father.

"4. As to the administration, what an inundation of pensions did the breach in the late reign produce! What a weight did that bring on my lord Sunderland's ministry! and it should be considered whether even that miserable expedient will be found practicable under this King. The present demands of mankind will rise on one side in proportion as greater hopes are held out on the other. It put lord Sunderland on strong measures to secure himself, which yet he could not carry. Witness the Peerage Bill, wherein were several provisions tempting to the Whigs, and yet they rejected it.

"5. It will make a coalition between the Whigs desperate and impossible. Before this the Whigs in opposition wanted a head, because liable to the disagreeable imputation of constantly acting with the Jacobites; had no prospect of ever coming into any share of power, but by re-uniting with their old friends. They will now find a head in the Prince, and he, being the immediate successor in the Protestant line, will be an irrefragable answer to the reproach of Jacobitism. Besides, the Whigs, as a party, will, in good policy, not wish such a coalition, unless it could be accompanied with a re-

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3d, a message from his Majesty by the earl of Essex, one of the lords of the bedchamber, congratulating him upon the birth of the Princess, but acquainting him, "That his carrying away the Princess from Hampton Court, the then residence of the King, the Queen and the royal family, under the pains and certain indication of immediate labour, to the immediate danger and hazard both of the Princess and her child, and after sufficient warning for a week before, to have the

conciliation between the father and son, lest it should throw the successor wholly into the hands of the Tories, and make their cause desperate when he comes to take possession; whereas, by having one set of Whigs in the Prince's favour, the party will have a fair chance to be preserved from ruin when that event shall arrive.

"6. Lastly, it must not be forgot, that if the King should carry his resentment so far as to remove his son out of his palace, it will be necessary that some account of a transaction of this high nature in the royal family, should be given to foreign courts. This measure was taken in the late reign. If the Prince should at length fully submit himself to his father, and do that which the world shall judge a complete satisfaction for the late offence, what reasons can openly be assigned to justify such a conduct? He would not say that reasons might not be suggested, from a series of conduct offensive and provoking in many other respects; but when once those come to be coolly examined, he suspected whether they would be found such, as it would be extremely difficult, if not impossible, publicly to avow and explain."

"The minister allowed all these to be considerations of great weight, without attempting to take off their force, except as to that of the Prince's children, who, he said, were intended to be left with their parents, whilst of tender age, only for nurture. The great point on which he laid his stress, was that the King had now an advantage, by the Prince having put himself so much in the wrong, which ought not to be parted with. That he was apprehensive there must be a total breach before there could be a complete reconciliation; and to make up the particular difference about carrying away the princess from Hampton Court, without the grand point, would not be so much as skinning over the sore, which would infallibly break out again worse than ever. That it was impossible to reconcile the whole without money, and that could not now be obtained; neither was it fit to advise the King to make such an advance, until his son, by proper acts of submission and declared alteration of conduct, should put himself in a condition to deserve it.

"As to the submission already made, he enlarged much on the offensive behaviour to the Queen; and in particular, objected that, although the King in his message had charged the 'fact to be a high indignity to himself and 'to the Queen,' the Prince had not in any of his letters asked her pardon, or so much as made an excuse to her Majesty for what he had done.'

"'Hereupon, the chancellor took occasion to observe, that this was manifestly the game of those advisers of the Prince, who intended to prevent a reconciliation; and as this last was their point, they could not play their cards better. That consequently the most effectual method of disappointing it must be the best play on the other side: and as the Queen had great talents, as well as great power with the King, would not it become her wisdom to suppress the woman's resentment, and take the contrary part to that into which these men wished to drive her? That in his opinion, if her Majesty continued unmoved by their ill usage, and in spite of all their provocations would reconcile the father and son, she would endear herself to the nation more than ever, and make an absolute conquest of all her enemies at once.'

"These sensible representations not only had no effect on the minister, but even seem to have made a contrary impression; for he said afterwards to some of his friends, "The lord chancellor made me a long visit, and talked like an angel on the subject of the Prince, yet I thought his arguments made for my conclusion rather than his," which induced the chancellor to lament the shortness of human foresight, and exclaim, in the words of Virgil,

"Nescia mens hominum sati, sortisque futuræ,
"Et servare modum rebus sublata secundis.
"Turno tempus erit, magno cum optaverit emptum,
"Intactum Pallanta et cum spolia ista diemque,
"Oderit."

"O mortals! blind in fate, who never know
"To bear high fortune, or endure the low!
"The time shall come, when Turnus, but in vain,
"Shall wish untouch'd the trophies of the slain,
"Shall wish the fatal belt were far away,
"And curse the dire remembrance of the day."
DRYDEN'S VIRGIL.

"Although it cannot be denied that the conduct of the Prince had given great and deserved offence to the King and Queen, and that in particular his behaviour to the Queen had been highly disrespectful, yet it cannot at the same time be sufficiently lamented, that the minister involved in the interests of party, the feuds of the royal family. He considered the struggle as much between himself and opposition, as between the King and Prince, and knowing the Prince's aversion to his ministry, viewed a cordial reconciliation as tending to his removal.

"Under these impressions he had drawn up, by order of the King, the substance of a message to be delivered to the Prince, ordering him to remove from the palace of St. James's; and

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necessary preparations for that happy event, without acquainting his Majesty or the Queen with the circumstances the Princess was in, or giving them the least notice of his departure, was looked upon by his Majesty to be such a deliberate indignity offered to himself and the Queen, that he resented it to the highest degree." His Royal Highness endeavoured to clear himself, by representing the necessity of leaving Hampton Court without a minute's delay, considering the condition the

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he communicated it confidentiallly to the lord chancellor, the duke of Newcastle, and Pelham, for their opinion, before it should be submitted to the whole council. He produced two letters, sent by the Prince to the King and Queen after the christening; and acquainted them, that the King was not satisfied with the submission made by his son. He added, with regard to the King himself, they were mere words, and calculated to be offensive and provoking to the Queen. None of the letters contained any assurance of a change of conduct, or of acting in subordination to his father's will for the future. The Prince was entirely under the influence and direction of persons whom the King had thought fit to remove from his councils and service, and who were in a determined opposition to all his measures; and lord Chesterfield and lord Carteret were known to be with him in private every day, and were called into his closet after the levee, as regularly as the King's ministers were called into his. He recapitulated many particulars, to shew that the Prince had avowedly set himself at the head of a faction in opposition to the King, and that these letters were understood by the King to proceed from their dictates, and intended only to amuse and deceive him. That things being in this situation, the King had resolved not to permit his son to reside any longer in his palace, but to send an order for his departure, with his whole family, as soon as it could be done without prejudice or inconvenience to the Princess, and had commanded him to prepare a draught of a message for that purpose, which he then read.

"The chancellor and his friends having expressed their concern, and delivered their opinion, that such a message should be avoided if possible, consistently with the King's honour; the minister replied, that such was the King's final resolution. It was then proposed, that a message should be sent to the Prince, acquainting him with the kind of submission which was required of him, and the alterations in his conduct, which the King expected as the terms of the reconciliation. But the proposal was rejected by sir Robert Walpole, as likely to beget mutual altercations, and produce a paper war between the King and his son, which would be attended with still more fatal consequences than taking it 'short at first.'

"The draught of the message was then taken into consideration. It was couched in very harsh and improper terms, and contained indecorous reflections, inconsistent with the dignity of the crown, and the station of the disputants. A paragraph towards the conclusion, expressed a severe reproach on 'persons in general' resorting to the Prince, who did not pay their court to the King, but opposed his measures, called them a 'Faction,' with other strong and harsh words. To all these, the chancellor objected, as a style improper between princes, and indecent from the King to his son. He thought, if a message of this nature must go, it should be strong, but full of decorum. Sir Robert Walpole declared his opinion, that, as the Prince had plainly set himself at the head of the opposition, it was right to carry the war into the enemy's country; and as they attacked the King through the sides of his ministers, to return it by falling on the Prince's advisers. To this the chancellor replied, that, as to such advisers as fomented this fatal division in the royal family, the harshest words which language could furnish were not too much; but his objection was, that, as the draught then stood, it comprised more, and might extend to all that came to the Prince, who happened to differ from the King's ministers in parliament, and did not come to court. That this would include some persons of the first quality and estates in the kingdom, besides great numbers of others who were only misguided; and as it was probable this paper might one time or other be laid before the parliament, it might give rise to very disagreeable debates and questions there. The duke of Newcastle and Mr. Pelham acceded to his opinion; whereupon most of those expressions and epithets were at length struck out, and that remarkable paragraph entirely changed and confined to the advisers of the Prince, who 'fomented 'the division in the royal family, and thereby 'weakened the common interest of the whole.'

"On the 9th of September, this message was laid before the Lords of the cabinet council who were not absent from London.

"Sir Robert Walpole acquainted them with the several causes of the King's displeasure against the Prince; he said, for these reasons the King was of opinion that the families should be separated, and desired their advice on the method of doing it; he had, by the King's order, and with his approbation, prepared the draught of a message to the Prince, which he should now submit to their consideration. He at the same time intimated, that the King thought the style of the draught full gentle enough. He then read the letters which had passed between the Prince on one hand, and the King and Queen on the other; and directed them to observe the difference between the narrative of the fact contained in the first letter to the King, and the accounts which he gave to the Queen, as well as to lord Harrington and himself, the morning after the labour, which

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Princess was in. This he did in two letters, one addressed to his Majesty, and the other to the Queen, both wrote in a most dutiful, filial strain. He repeated his importunity for a reconciliation in a very humble message he sent next day by the marquis of Carnarvon, one of the lords of his bedchamber. He received no return to his applications but a message by the earl of Dunmore, that it was his Majesty's pleasure the baptism of the young Princess should be performed on the 29th,

last he read from some minutes to which lord Harrington had agreed. He observed, with great emphasis, that these letters were specious empty words, without any assurances or alteration of conduct, and laid great stress on the variations between the letters to the King, and those to the Queen, and particularly requested them to remark, that in the letter to the Queen, the words, 'your Majesty,' were never used, but only 'madame' and 'vous.' He then read the draught of the message.

"The Lords sufficiently testified their concern, by their looks and expressions. They understood this to be a communication of the King's determined resolution, which was not to be changed. They agreed that he was undoubtedly master in his own family, and as he had been highly offended, he was to judge whether he would forgive or resent. They considered that their advice was only required as to the 'method,' not the 'measure,' and therefore proceeded to take the draught into consideration. A few exceptions were made to the terms. Two were made by the lord chancellor, the first to the words, 'I cannot suffer 'myself to be imposed upon by them,' as too harsh, and not adequate to the dignity of the personages concerned, he proposed to insert, 'I cannot, consistently with my own honour 'and authority, suffer them to have any weight 'with me.' But this alteration was not adopted. The second objection was to the word 'rendezvous,' as too low and coarse; and as all the Lords concurred in the same opinion, it was omitted, and the word 'resort' suffered to stand alone. In the place of, 'you shall not 'reside in my palace,' inserted at the proposal of the archbishop, lord Godolphin offered, 'I 'think it not fit that you should reside in my 'palace;' an alteration which was approved by the chancellor, as expressive of the King's opinion, and properly introductive of the subsequent command to leave St. James's. This was rejected on the observation of sir Robert Walpole, that those words could not be considered as sufficiently strong.

"After making a few other verbal alterations of little consequence, the Message was agreed to, and submitted to the final approbation of the King.

"The manner of sending it to the Prince was proposed to be by a Message signed by the King at the top, with his name at length, and with two first letters at the bottom, after the form of instructions; and that an order, signed by his Majesty, should be delivered to the persons who should be charged with carrying it, reciting the Message in the very words, and commanding them to read it to, and leave it with his Royal Highness. It was also agreed, that copies of this Message should be privately delivered to the several foreign ministers in England, and other copies sent to the king's ministers residing abroad, as a *species facti*, or narrative of the King's reasons for this proceeding with his son.

"Other particulars were mentioned, and it seemed to be the general sense of the Lords that they should be regulated in like manner as upon the separation in the late reign; but it was thought proper to leave them to the personal direction of the King himself, without offering any particular advice thereupon. On Saturday September 10th, this Message, signed as before mentioned, was sent to the Prince by the duke of Grafton, duke of Richmond, and earl of Pembroke, who had a signed order, as above described, for their justification.

"'The professions you have lately made in your letters, of your particular regard to me, are so contradictory to all your actions, that I cannot suffer myself to be imposed upon by them. You know very well, you did not give the least intimation to me, or to the Queen, that the princess was with child, or breeding, until within less than a month of the birth of the young princess: you removed the Princess twice in the week immediately preceding the day of her delivery, from the place of my residence, in expectation, as you have voluntarily declared, of her labour; and both times, upon your return, you industriously concealed from the knowledge of me and the Queen, every circumstance relating to this important affair: and you at last, without giving any notice to me, or to the Queen, precipitately hurried the Princess from Hampton Court, in a condition not to be named. After having thus, in execution of your own determined measures, exposed both the Princess and her child to the greatest perils, you now plead surprise, and tenderness for the Princess, as the only motive that occasioned these repeated indignities offered to me, and to the Queen your mother.

"'This extravagant and undutiful behaviour, in so essential a point as the birth of an heir to my crown, is such an evidence of your premeditated defiance of me, and such a contempt of my authority, and of the natural right belonging to your parents, as cannot be excused by the pretended innocence of your intentions, nor palliated or disguised by specious words only.

"'But the whole tenor of your conduct, for a considerable time, has been so entirely void of all real duty to me, that I have long had reason to be highly offended with you.

"'And until you withdraw your regard

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and that he would send his lord chamberlain to stand as godfather in his place; that the Queen's lady of the bedchamber would stand for her Majesty as godmother; and desiring the Princess to appoint one of the ladies of her bedchamber to represent the duchess dowager of Saxe-Gotha as the other godmother; the ceremony to be performed by the archbishop of Canterbury.

The Prince took occasion, from this message, to reiterate his application for reconciliation and pardon with more earnest-

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and confidence from those by whose advice you are directed and encouraged in your unwarrantable behaviour to me and to the Queen, and until you return to your duty, you shall not reside in my palace, which I will not suffer to be made the resort of them, who, under the appearance of an attachment to you, foment the division which you have made in my family, and thereby weaken the common interest of the whole. In this situation I will receive no reply; but when your actions manifest a just sense of your duty and submission, that may induce me to pardon, what at present I most justly resent.

" ' In the mean time, it is my pleasure that you leave St. James's, with all your family, when it can be done without prejudice or inconvenience to the Princess. I shall for the present leave to the Princess the care of my grand-daughter, until a proper time calls upon me to consider of her education.'

" All farther application from the Prince being ineffectual, he retired from the palace, to Norfolk-house, in St. James's square, where he took up his residence, and his house became the centre of political opposition. The King accordingly issued an order, forbidding all persons who paid their court to the Prince and Princess of Wales, from being admitted into his presence at any of the royal palaces.

" All the correspondence which passed between the King, Queen, and the Prince, on this unfortunate occasion, was published, by authority of the court, and distributed to each of the foreign ministers in England, and to the British ambassadors abroad.

" As the message delivered on the 10th of September, contained many reflections on the Prince, which no man of honour could forgive, the measure tended still farther to irritate him, and to supply an excuse for his resentment to the King, and his detestation of the minister, who incurred the principal blame in this whole transaction, and was accused of fomenting the misunderstanding, to serve his own sinister purposes. The Prince gave credit to these imputations. Walpole was held out as the man who having so often, nay, so constantly sacrificed the national interest to his avarice, his ambition, and his fears, had now sacrificed to his passions the peace of his master's family, and taken that opportunity to make him declare a proscription to all those who opposed the minister.

" In reviewing the conduct of Walpole in this delicate transaction, he cannot be wholly exempted from blame; nor is it easy to ascertain in what degree he was culpable. He had, on former occasions, earnestly laboured to reconcile the father and son, and had infused into the King a spirit of moderation and forbearance. This case was attended with peculiar difficulties, which can never be fully appreciated. Lord chancellor Hardwicke himself says, ' Sir ' Robert Walpole informed me of certain pas- ' sages between the King and himself, and be- ' tween the Queen and the Prince, of too high ' and secret a nature, even to be trusted to this ' narrative; but from thence, I found great ' reason to think that this unhappy difference ' between the King and Queen, and his Royal ' Highness, turned upon some points of a more ' interesting and important nature, than have ' hitherto appeared.'

" It is, however, justly remarked by the same candid observer, that those who attempted to reconcile the breach, were not listened to on either side. On the part of the Prince, those who wanted to set him at their head, against his father's measures, seemed to have it in view to write such letters to the King as might read well when published to the world, be taken for a submission, and at the same time effectually prevent that from being accepted, by provoking the Queen, and thereby cut off the chance of mediation, and shut the only door through which any reconciliation could enter. On the other side, sir Robert Walpole seemed to think, that they had now an advantage over the Prince which ought not to be parted with, and that it would be better for the administration to have a total and declared separation, than that things should remain in the precarious state in which they then stood.

" In the course of this unfortunate transaction, the Prince gave signs of high spirit and extreme sensibility; a striking instance of which is recorded by lord chancellor Hardwicke, which I shall relate in his own words. ' On the 4th of August, the day of proroguing the parliament, I went to St. James's in my way to Westminster, in order to enquire after the health of the Princess of Wales, and the new-born princess. After I had performed that ceremony, I went away, and was overtaken at the further end of Pall-mall, by one of the Prince's footmen, with a message that his Royal Highness desired to speak with me.

" ' Being returned, I was carried into the nursery, whither the Prince came immediately out of the Princess's bedchamber, and turned all the women out of the room. Having said many civil things, and made me sit down, he shewed me a message which he had received the day before from the King, which he said, he presumed I, being one of the cabinet, must have seen before. Without staying for an answer, he made a long apology for his conduct,

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ness and humility than ever, both to the King and Queen. But on the 10th of September following he received, by the duke of Grafton, a very severe message from the King, reproaching him again for hurrying the Princess, in the manner he did, from Hampton Court; and concluding with the following remarkable expressions:

"The whole of your conduct for a considerable time, has been so entirely void of all real duty to me, that I have long had reason to be highly offended with you. And until you withdraw your regard and confidence from those by whose instigation and advice you are directed and encouraged in your unwarrantable behaviour to me and the Queen, and until you return to your duty, you shall not reside in my palace; which I will not suffer to be made the resort of them, who, under the appearance of an attachment to you, foment the division which you have made in my family, and thereby weaken the common interest of the whole. In this situation I will receive no reply; but when your actions manifest a just sense of your duty and submission, that may induce me to pardon what at present I most justly resent. In the mean time it is my pleasure that you leave St. James's, with all your family, when it can be done without prejudice or inconvenience to the Princess. I shall, for the present, leave to the Princess the care of my grand-daughter, until a proper time calls upon me to consider of her education."

This message admitting of no reply to the King, his royal highness ordered lord Baltimore, one of his domestics, to apply to lord Grantham, chamberlain to the Queen, to know whether her Majesty would receive a letter from him, in mitigation of his conduct. But her Majesty declining that; the Princess sent sir William Irby with a letter to be delivered to his Majesty by the earl of Pembroke, the lord in waiting, and which his Majesty answered in terms full of affection and civility to the Princess; but it was plain that his displeasure at the conduct of the Prince was rather encreased than abated. The Princess in like manner wrote in the most submissive manner to the Queen, who returned her a most affectionate answer; but insinuated, that the King had more cause to

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much to the effect of his first letter to the King, with this addition, that if the King, who was apt sometimes to be pretty quick, should have objected to her going to London, and an altercation should have arisen, what a condition would the poor Princess have been in? He then said, he would read me two letters he had written, the one to the King, and the other to the Queen; whereupon I asked him whether they had been sent, for if they had not, I was determined in my own mind not to have seen or heard them read. He answered, they were sent the day before by my lord Jersey, and then read them. He asked me what I thought of them? at which I bowed, and said nothing. He went on, that upon those letters the king sent word he would not see him; but he did not think fit to let it rest there on his part, and had sent another letter by lord Carnarvon that morning, which he read, and asked me, if it was not very respectful; to this I answered, 'very respectful'; and indeed, it was a much more proper letter than the former.

"'I then proceeded to tell his Royal Highness, that I had heard nothing of this unhappy affair, till my going to Hampton Court on the Tuesday before, to congratulate the King and Queen on the birth of their grand-daughter. That I then found their Majesties highly offended with what had passed, and I should be unjust to his Royal Highness, if I concealed from him, that, from the circumstances preceding and accompanying the carrying away the Princess, they understood it to proceed from a deliberate intention to take that part without their privity. I added, that incidents of this nature gave the deepest concern and affliction to every one who wished well to the whole royal family, and to none more than myself. That every occasion of that kind ought to be removed; for that union in the royal family was most essential to the true interest and preservation of it. That the contrary gave the most formidable advantages to their enemies; whereas nothing could hurt any branch of it when united. That I hoped his Royal Highness would show such a submission and dutiful behaviour to the King his father in the present juncture, as would tend to bring about this union, and that I was sure it would be the zealous endeavour of the King's servants, and in particular of myself, to do every thing that might facilitate it.

"He answered, my lord, 'I don't doubt 'you in the least, for I believe you to be a 'very honest man;' and as I was rising up, embraced me, offering to kiss me: I instantly kneeled down, and kissed his hand, whereupon he raised me up and kissed my cheek. The scene had something in it moving; and my heart was full of the melancholy prospect that I thought lay before me, which made me almost burst into tears. The Prince observed this, and appeared moved himself, and said, 'let us sit down, my lord, a little, and recol-'lect ourselves, that we may not go out thus.' Soon after which, I took my leave, and went directly to the House of Lords."

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be displeased with the Prince, than either she or the public apprehended.

Thus ended a correspondence which, as soon as it was over, was printed by authority, and left various impressions upon the minds of the public. Most men of sense and candour, who were in a situation to judge dispassionately and disinterestedly, thought, and did not scruple to say, that both his Majesty and the Prince were imposed upon by those who found their account in their differences; and they lamented the breach between them being of such a nature as did not admit of its being healed by a personal interview. But the conduct of his Royal Highness cannot be known so properly as by exhibiting a view of his character and connections at this time.

During his education in Germany, after he came to the years of thinking for himself, he applied with great assiduity to the study of the constitution and interests of Great Britain. But when he came to England, he found the public itself so much divided upon those important points, that he applied for farther information to those who were most likely to give it him. He was naturally fond of the fine arts. He understood, and sometimes practised, music; he knew what was graceful in architecture, painting, and sculpture, and he understood English poetry far beyond what could have been expected from his education. He was passionately fond of virtuous popularity, and his soul was beneficence itself. With such dispositions, it was no wonder, after he came to England, that he devoted himself to the study of every art that could make him agreeable to the people whom he had a prospect of reigning over. All ranks met his ardour with equal affection. He gave every day proofs of every virtue as a husband, a friend, and a master; and like Titus, none ever went out of his presence dissatisfied. His judgment in public matters was sound; but being bred abroad, he was too diffident, and he applied for information to those who he thought were furnished with the greatest abilities, and whom his own magnanimity and unsuspecting nature kept him from believing they ever could impose upon him. Their intention was otherwise, but they were deeply prepossessed against the minister, and they promised him great advantages in point of fortune and independency, if he would join in the opposition. After their efforts of doubling his revenue had failed, they applied to his passions, which were virtuous and liberal. They represented the minister as the only enemy his royal father had in the kingdom; and many other circumstances concurred in his prepossessions against him.

Lord Bolingbroke was then reckoned the greatest writer in prose and in politics in the kingdom. Mr. Pope was esteemed the greatest wit and poet: the former was the determined, and personal, enemy of the minister; and the latter professed a fixed aversion to the court. Most of the men of wit and genius, disobliged or disgusted with the minister's too great inattention to their merits, joined the same party; and thus his Royal Highness was, from the goodness of his heart, led to think, that the cause of opposition was that of liberty. He, therefore, without any disguise, put himself at the head of the measures intended to distress the minister, but without the least indecency offered either as a son or a subject to his royal parents. Perhaps his great regard for them, induced him to agree to schemes which he thought would establish the constitution in contradiction to the government, a doctrine, at that time, greatly in vogue.

It is certain, that the notion of his Royal Highness having put himself at the head of the opposition, operated fatally for the internal quiet of the kingdom. The Scots were exasperated to the last degree on account of the Bill, mild as it was, that had passed against the provost and city of Edinburgh. The act, which was made for discovering the murderers of Porteous, was received by the clergy, who were obliged to read it from their pulpits with the utmost abhorrence; and many of them told their auditories, "that though they were obliged to read, the others were not obliged to hear;" and therefore it was commonly read to bare walls; and in some places the reading it was even disregarded; while in others, the power of parliament, to enact such a reading, was questioned, and set aside.

The complaints and hardships which the lower ranks of people still continued to suffer, by the severity of the late Bill against drinking spirituous liquors, added to the general discontent; and all was placed to the account of the minister. Too much encouragement to informers, those pests of society, had been given by the act; in many places they were assaulted, and, in some, they were in danger

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of their lives. The commissioners of the excise were sensible of the hardships they were daily forced upon with regard to offenders; and policy, as well as humanity, obliged them to mitigate the severity of the law, which was now become odious and contemptible.

But the greatest and most lasting source of national discontent lay in the depredations, which the Spaniards still continued to commit upon the properties of English subjects in the West Indies and America. Three very rich ships had been lately taken by their guarda costas; the George, belonging to Bristol, the Dispatch and the Royal Jane, belonging to London; and this fresh insult upon national property occasioned an application from the merchants personally to his Majesty, which was in the following terms:

"That the fair and lawful trade of your Majesty's subjects to the British plantations in America, hath been greatly interrupted for many years past, not only by their ships having been frequently stopped and searched, but also forcibly and arbitrarily seized on the high seas, by Spanish ships fitted out to cruize, under the plausible pretence of guarding their own coasts; that the commanders thereof with their crews, have been inhumanly treated, and their ships carried into some of the Spanish ports, and there condemned with their cargoes, in manifest violation of the treaties subsisting between the two crowns.—That notwithstanding the many instances made by your Majesty's ministers at the court of Madrid, against this injurious treatment, the late and repeated insults of the Spaniards upon the persons and properties of your Majesty's subjects, lay your petitioners under the necessity of applying again to your Majesty for relief.—That by these violent and unjust proceedings of the Spaniards, the trade to your Majesty's plantations in America is rendered very precarious; and if any nation is suffered thus to insult the persons of your Majesty's subjects, and plunder them of their property, your petitioners apprehend, it will be attended with such an obstruction of that valuable branch of commerce, as will be very fatal to the interest of Great Britain.—Your petitioners, therefore, humbly pray your Majesty, that your Majesty will be graciously pleased to procure speedy and ample satisfaction to your subjects for the losses they have sustained, and that no British vessel be detained or seized on the high seas by any nation, on any pretext whatsoever; and that the trade to America may be rendered sure for the future, by such means as your Majesty in your great wisdom shall think fit."

Though this Petition was highly exceptionable, both in point of matter and decency, yet his Majesty received and answered it with the utmost marks of paternal goodness, and his secretary of state sent fresh orders to Mr. Keene, to repeat his instances at the court of Madrid, for their relief. In the mean while, a committee of the privy council sat at Whitehall, and suffered the proofs of the losses, which the merchants had suffered by the Spaniards.

This year was distinguished by the fatal calamity of the death of Wilhelmina Carolina, Queen Consort of Great Britain, in the 55th year of her age.* Her Majesty

* "I shall close the transactions of the year 1737, with the illness and death of Queen Caroline, an event highly disastrous to the country, to the King, and to sir Robert Walpole. This illustrious and amiable woman had been for some time in a declining state of health. The disorder under which she had laboured, and which occasioned her death, was a rupture, which, from motives of delicacy, she had communicated only to the mistress of the robes, her favourite lady Sundon: she was even so imprudent as to conceal the cause of her illness from the medical men who were called in to her relief. This false delicacy, which was incompatible with her usual magnanimity, was the cause of her death. For the medicines which were administered, and the methods taken, were diametrically opposite to those which would have been adopted, had her disorder been known. Judging from the symptoms, and from her own declarations, the physicians treated it as the gout in her stomach, and administered strong cordials, which aggravated the malady. When the danger became so imminent as to render the concealment impossible, it was too late. She submitted in vain to the most painful operations, and the surgeon who performed them declared, that if he had been acquainted with her real situation two days sooner, her speedy recovery would have been the consequence.

"Although racked with extreme agony, almost without intermission, during twelve days and nights, she bore her sufferings not only with patience and resignation, but almost without a groan, maintaining, to the moment of her dissolution, serenity, temper, dignity, greatness of soul, and an unaffected submission to the ways of Providence. In all this melancholy scene, she behaved with such invariable courtesy to every one about her, that one of the physicians observed, he had never met with a similar instance in the whole course of his

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had been for some days disordered, and received medicines for the gout in her stomach, but the distemper proved to be a concealed rupture, which put an end to her life on the 20th of November. No princess ever lived more in the love and esteem of all who knew her, than she did. Her conjugal affection was exemplary; and her parental was proved by the numerous virtues which adorned her offspring. It was lamented that the nature of the breach between the King and the

practice. She repeatedly expressed to her attendants, her grateful sense of their laborious watchings, and distinguished each of them with appropriate marks of regard.

"She recommended her servants, in the most affecting and solemn manner, to the king's favour and protection; extended her concern to the lowest of them, and was equally warm in her solicitude for their welfare; recounting to him the faithfulness of their respective services.

"This firmness and resignation were not the effect of insensibility or stoical indifference, but derived from the strongest exertions of reason and religion. On the second day of her illness, she was observed to shed some tears, occasioned either by the lowness of her spirits, the anguish of her sufferings, or by tenderness for the despair of her family; she soon, however, recovered from this debility, and resumed her accustomed fortitude. Apprehensive that during a painful operation, she had so far forgotten herself as to use peevish expressions, she reproached herself with having shewn an unbecoming impatience.

"She frequently declared that she had made it the business of her life to discharge her religious and social duties; she hoped God would pardon her infirmities, and accept the sincerity of her endeavours, which were always intended to promote the king's honour, and the prosperity of the nation. She declared that she was a hearty well-wisher to the liberties of the people; and that if she had erred in any part of her public conduct, it arose from want of judgment, not from intention.

"A little before she died, she said to the physician, 'How long can this last?' and on his answering, 'Your Majesty will soon be 'eased of your pains;' she replied, 'The 'sooner the better.' She then repeated a prayer of her own composing, in which there was such a flow of natural eloquence, as demonstrated the vigour of a great and good mind. When her speech began to faulter, and she seemed expiring, she desired to be raised up in her bed, and fearing that nature would not hold out long enough without artificial supports, she called to have water sprinkled on her, and a little after desired it might be repeated. She then, with the greatest composure and presence of mind, requested her weeping relations to 'kneel down and pray for her.' Whilst they were reading some prayers, she exclaimed, 'pray aloud, that I may hear;' and after the Lord's prayer was concluded, in which she joined as well as she could, she said, 'So,' and waving her hand, lay down and expired.

"Having already discussed the character of the Queen, I shall only add a few traits to the preceding sketch. She was blessed with a natural serenity and calmness of mind, and often expressed her thankfulness to God, that he had given her a temper which was not easily ruffled, and which enabled her to support every difficulty. It was truly said of her, that the same softness of behaviour and command of herself, that appeared in the drawing room, went along with her into her private apartments, gladdened every body that was about her person, accompanied her as well in the gay and cheerful seasons of life, as under the most trying circumstances, and did not fail her even in the hour of death itself.

"One part of her conduct, which reflects the highest honour on her memory, was her maternal attention to her children, and particularly to her daughters. She superintended their education, directed their behaviour, formed their manners, and tempered her reproofs with a mixture of proper severity and kindness, which rendered her equally beloved and respected.

"The enemies of queen Caroline have represented her as being of an unforgiving temper, and even reproached her with a want of maternal affection. It was maliciously suggested, that she fomented the misunderstanding between the King and the Prince of Wales; but on the contrary, she exerted her utmost influence to abate the petulance of the son, and the irritability of the father. Once in particular, when an action of the Prince had been represented to the King with malicious aggravation, the Queen defended her son, and good naturedly observed, 'Ce n'est qu' une indiscretion de 'page:' 'Tis nothing but a youthful frolic. The tongue of slander has even reproached her with maintaining her implacability to the hour of death, and refusing her pardon to the Prince, who had humbly requested to receive her blessing. To this imputation, Chesterfield alludes in a copy of verses, circulated at the time:

"And unforgiving, unforgiven dies."

"Pope also has consigned to posterity this aspersion, in terms of malignant irony:

"Or teach the melancholy muse to mourn,
Hang the sad verse on Carolina's urn,
And hail her passage to the realms of rest,
All parts perform'd, and ALL *her children blest.*"

I am happy to have it in my power to remove this stigma from the memory of this great princess. She sent her blessing and a message of forgiveness to her son, and told sir Robert Walpole, that she would have seen him with pleasure, but prudence forbad the interview, as it might embarrass and irritate the King.

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Prince of Wales, did not, in her opinion, admit of his receiving in person the last testimonies of her affection; but the manner of her death, which was pious and edifying, sufficiently spoke her at peace with all the world.

But her Majesty was not distinguished by the private virtues alone. Her royal consort, in her, always found a wise and a faithful counsellor; and when she was entrusted, as she often was, with the reins of government, the public was happy under her administration. Her natural sagacity and talents were improved by reading and

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"Her charities were limited only by her revenue; though she avoided all appearance of ostentation so much, that many persons who subsisted by her bounty, were wholly ignorant of their benefactress; and she was so liberal that her public and private lists, with the occasional sums expended on the same account, amounted to near a fifth part of her whole income.

"Her disposition was so humane and benevolent, that the unfortunate in all situations and religions were secure of her protection. She paid a particular attention to those Roman Catholics, whose zeal in favour of the Pretender had exposed them to the rigour of the laws. Several Popish and Jacobite ladies, and particularly the duchess of Norfolk, were admitted to private conferences. Their representations procured liberal supplies of money to many of the most indigent. In some instances, she even carried her protection to an impolitic extreme, and in a manner which distressed sir Robert Walpole. Archibald earl of Ilay, who principally managed the affairs of Scotland, having been reproached for permitting so large a number of Jacobite meeting houses in Edinburgh, and in other parts of the kingdom, in open defiance of the laws; acknowledged the fact, and exculpated himself, by declaring that he had laid a scheme for suppressing them before the minister, who discouraged his attempt, by observing, their friends had a ready access to the Queen by the back stairs, and all his efforts would be defeated.

"A conspicuous part in the character of queen Caroline, was her great patronage of learned men. The protection she afforded to the first luminaries of the church has been slightly mentioned. She distinguished Clarke, Hoadly, Butler, Sherlock, Secker, and Pearce, with peculiar marks of regard. The gracious manner in which she listened to recommendations of literary eminence, is well displayed in an anecdote relating to the celebrated author of 'The Analogy between Natural and Revealed 'Religion.' Secker, while he was king's chaplain, mentioned, in conversation with the Queen, Butler, who was then rector of Stanhope. The Queen said, she thought he was dead, and making enquiries of archbishop Blackburne, if he was not dead, his answer was, 'no, madam, but he is buried.' Soon afterwards, without solicitation, she appointed him clerk of her closet, and he used to attend her every day, from seven to nine, in the afternoon. She also caused his name to be inserted on the list for a vacant bishoprick.

"Obscurity, disgrace, and banishment, were no obstacles to her bounty and protection. She conferred benefactions on Stephen Duck, who from a common labourer, had raised himself into notice as a poet. She obtained the pardon of Savage, who was condemned to death for having committed a murder in a drunken fray, in spite of the opposition of his unnatural mother, and supported him with an annual pension. She shewed her esteem for the memory of Milton, by conferring a present on his grand-daughter. She obtained the recal of lord Lansdowne, and of Carte, the non-juring historian, who had both been obliged to abscond for suspected principles.

"Words cannot sufficiently express the sensibility and affection of George the Second during her illness, and his regret for her loss. He watched by her bed-side with unabated attention, and could scarcely be prevailed on to take any rest, till she expired.

"As soon as the first emotions of grief had subsided, he loved to talk of his departed Queen, recounted her virtues, and considered how she would have acted on occasions of difficulty. He continued the salaries of all the officers and nominal servants who were not taken into his own household, and commanded a list of her numerous benefactions to be laid before him; saying it was his intention, that nobody should be a sufferer besides himself.

"On her death bed, the queen testified her approbation of sir Robert Walpole's measures, and the high opinion she entertained of his capacity and rectitude. Turning to the minister, who with the king was standing by her bed-side, she said to him, 'I hope you will never desert the King, but continue to serve him with your usual fidelity;' and pointing to the King, she added, 'I recommend his Majesty to you.' The King said nothing, and the minister was alarmed, lest this mode of making him of more consequence than the King, might awaken jealousy, and be the cause of his disgrace. But these apprehensions were unfounded.

"The King was so affected with the Queen's death, that for a long time after that melancholy event, he could not see sir Robert Walpole without bursting into tears. About a fortnight afterwards, the King shewed him an intercepted letter, in which it was observed that as the Queen was dead, the minister would lose his sole protector. 'It is false,' said he, good naturedly, 'you remember that on her death-bed the queen recommended me to you.'" Coxe's Memoirs of Sir Robert Walpole.

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conversing with the most eminent philosophers and authors of the age, and she had made so great a progress in literature, that she became an umpire in one of the most abstruse points of metaphysical reasoning that ever was agitated; the doctrine of free will and fatality, as disputed between Mr. Leibnitz and doctor Clarke. This turn for letters had so happy an effect, that the ingenious were always sure of her patronage; and through that, the bench of bishops was filled up with prelates, eminent for learning and moderation.

His Majesty for some time was inconsolable for his loss, and never was there a more universal and sincere mourning, than appeared upon this melancholy occasion; nothing being wanting that could testify the concern of the public. Her body was deposited with the proper funeral ceremonies, in a new vault in Henry the 7th's chapel.*

FOURTH SESSION OF THE EIGHTH PARLIAMENT OF GREAT BRITAIN.

The King's Speech on Opening the Session.] January 24, 1738. The King opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I have called you together for the necessary dispatch of the public business; which I hope will be carried on with that prudence and expedition which becomes the wisdom of parliament.

"Gentlemen of the House of Commons,

"I have ordered the Estimates for the service of the current year, to be laid before you: and the readiness which I have always found in you, to make the necessary provisions for the honour, peace, and security, of my crown and kingdoms, leaves me no room to doubt of the same zeal, affection, and due regard, for the support of my government and the public safety.

"My Lords and Gentlemen,

"I hope you are met together in a disposition to lay aside all heats and animosities which may unnecessarily protract this session. I am determined that the affairs of the public shall suffer no delay or interruption from me, upon any account whatsoever."

The Lords' Address of Thanks.] The Lords agreed upon the following Address of Thanks:

"Most gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to return your Majesty our unfeigned thanks for your most gracious Speech from the throne.

"It is with the greatest humility we take this first opportunity of approaching your royal person, to lament the irreparable loss, sustained by your Majesty and these kingdoms, in the death of that excellent princess, our late most gracious Queen; and with hearts overwhelmed with grief, to condole with your Majesty, on this melancholy and solemn occasion.

"To indulge ourselves in reflecting upon the many great and amiable qualities, which distinguished her shining character, and conspired to form the greatest queen, the most endearing consort, and the best parent, that ever made a prince, a people, and a royal family happy, would only serve to aggravate your Majesty's just grief, and make those wounds bleed afresh, which it is our interest, and shall be our endeavour, to heal. For if the remembrance of the blessings we enjoyed, from the happy effects of her never-to-be-forgotten virtues, adds so much to the general affliction, how deep a sense must it strike into the breast of your Majesty, the immediate and daily witness of her inestimable accomplishments!

"At the same time that we presume to lay these imperfect expressions of our real sorrow at your royal feet, we cannot but bless God for the preservation of your Majesty's most precious life, on which the welfare and happiness of these kingdoms do in so great a measure depend; humbly beseeching your Majesty, under this severe misfortune, so to moderate your grief, as not to endanger a health of such infinite importance to all your people, and to exert that princely fortitude of mind, which alone can revive our disconsolate spirits; and, by lessening your Majesty's grief, alleviate that of your faithful subjects.

"Your Majesty's gracious declaration, that the affairs of the public shall suffer no delay or interruption from you, on any account whatsoever, is a fresh instance of

* Tindal.

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your Majesty's making the welfare of your people, your first care in all circumstances, and under all trials; and must be the strongest inducement to us, if any were wanting, to lay aside all heats and animosities. As your Majesty has always founded the glory of your reign, in preserving the religious and civil rights of your people, and steadily pursuing their prosperity and happiness; so we, in return, place our great security under God, for those invaluable blessings, in the safety of your Majesty's most sacred person and government, which we will always support to the utmost of our power, excited by all the ties of duty and gratitude, to persevere with unalterable zeal and affection in our loyalty to your Majesty, and an unshaken regard to the honour and dignity of your crown."

The King's Answer.] His Majesty's Answer was as follows:

"My Lords,

"I thank you for this dutiful Address, and for your zeal for my person and government. The affectionate manner in which you express the just sense you have of my great loss, gives me the most acceptable proof of your real concern for me and my family."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House,

Mr. *Henry Fox* stood up, and introduced his motion for an Address of Thanks, in the following manner:

Sir; It has been always the custom of this House, at the beginning of every session of parliament, to return his Majesty our thanks for his Speech from the throne; but, the severe stroke, which not only his Majesty and the royal family, but all the nation have received since our last meeting, in the death of the Queen, requires, that on this occasion our thanks to his Majesty for his most gracious assurances, should be attended with our condolance for his unexpressible loss. A loss, Sir, which, I flatter myself, I read in the eyes of every gentleman who hears me, and which must be regretted by every subject in the kingdom, who retains in his breast one spark of loyalty and gratitude.—Gentlemen cannot miss to observe, that if his Majesty has expressed himself on this occasion with more brevity than usual, it is owing to the remembrance of a Princess who endeared herself in every relation of life, either as a consort, a mother, or a Queen. And though her death, Sir, is an afflicting dispensation to all the nation, yet we cannot suppose that any of us can feel it so deeply as the royal breast, which, while she was alive, she so much eased of the toils of government by her counsels, which never had any other tendency than to promote his honour by promoting the happiness of his people. Of this, Sir, we had many late instances, especially when the sovereign power, in the absence of her royal consort, was delegated into her hands. On that occasion, Sir, we may all remember with what moderation she governed, with what cheerfulness she rewarded, and with what reluctance she punished; though the prudence of her measures rendered the exercise of this last and most ungrateful branch of the royal prerogative, but seldom necessary. Therefore, Sir, however some amongst us may differ in particular views and interests, I hope we shall all unite in paying a debt of gratitude to the memory of the best of princesses, as well as of duty to the best of kings. I move, therefore, That this House should resolve, "That an humble Address be presented to his Majesty; to return his Majesty the thanks of this House for his most gracious Speech from the throne; to condole with his Majesty on his, and the nation's irreparable loss, by the death of her late Majesty, and to assure his Majesty, that this House does always take part in every thing that nearly concerns and affects him, and will endeavour to soften every care that may approach him; to assure his Majesty, that we will carefully avoid all heats and animosities; that we will readily and effectually raise the supplies necessary for the service of the current year; and, as we are truly sensible of the regard his Majesty has always shewn to the liberties and privileges of his subjects, that we will, as becomes the representatives of a grateful people, lose no occasion of testifying our affection and zeal for the support of his government, and the preservation of our excellent constitution; and farther, to beseech his Majesty to be careful of his sacred and inestimable life, on which the happiness of his family and his people so immediately depends."

This motion was seconded by Mr. Selwyn, jun.; upon which,

Mr. *Shippen* spoke to the following purpose:

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Sir; It would be very unbecoming any gentleman in this House, to oppose the motion made by the honourable gentleman who spoke last. For my own part, Sir, I have so deep a sense of the loss we all sustain by the death of that incomparable princess, that I think no expressions of gratitude or sorrow can do more than justice to her character. Thus much, Sir, I speak as a subject of his Majesty: I shall now beg leave to trouble you with a few words, as one who has the honour to sit in this House.—Speeches from the throne, Sir, have often, in my time, been looked upon as expressing the sense of the ministry, rather than that of the Prince. For which reason there have been many instances wherein this House has taken the liberty to debate on every sentence of such speeches. I do not indeed affirm that the Speech now to be considered is drawn up to serve any private ministerial ends; but think that, in our Address of Thanks, we ought to go no greater lengths than the general expressions in the speech require. I am, Sir, confirmed in this opinion from former instances, wherein I have known that too warm an Address from this House has been looked upon by the ministry as an approbation, not only of their past, but their present and future measures. I have known, Sir, a minister, when any part of his conduct was objected to, tell gentlemen; "Did you not give the crown all the assurances possible, that you were perfectly satisfied with the measures taken by the government? Did not you return an Address of Thanks, and express your resolution to concur with his Majesty in every step he should take for the welfare and security of the government?" I say, Sir, such speeches as these have formerly been made by ministers, and gentlemen have found themselves very much embarrassed by the fine words and fair promises inserted in their Address. Therefore, Sir, I think it not improper, as his Majesty has not been pleased to inform us of the situation of affairs, to suspend our approbation of any measures that may have been taken since last session. When they come to be laid before us in a regular manner, let us then approve them, if they are right measures; but let us not by an over-forward zeal preclude ourselves from the liberty of objecting to them, if they are wrong ones. Some of them, Sir, may very soon come under our consideration; for I believe no gentleman here is ignorant, that our merchants have of late made very strong applications to the government for a redress of the injuries they have suffered by the Spanish Depredations. This affair may very probably come before us, in this session; and then, Sir, I hope we shall have a fair opportunity of doing justice to the zeal of the administration for the honour and interest of the kingdom. Besides, Sir, this last Speech from the throne being, as the honourable gentleman observed, shorter than usual, we can learn nothing from it concerning the state of our affairs, with respect to the other powers of Europe; we know nothing of the many negotiations set on foot, since our last session, for securing the balance of power, and for preventing our aspiring neighbours of France from becoming too formidable, and from rising by the depression of the emperor. And here, Sir, I must beg leave to take notice, that if ever the sentiments of those without doors are to have any weight in this House, we have on this occasion the strongest reason for our being cautious, how we do any thing that may look like an approbation of our late measures; for wherever I have happened to be since we last met, I have heard them unanimously condemned. But be that as it will, when these and the like points come under our consideration, if it shall appear that our ministers have acted a part becoming the dignity, and consistent with the welfare of this nation, I shall very readily consent to our making them as ample acknowledgments as their conduct deserves; but till this appears, it is my humble opinion, that we ought not to be lavish of our compliments, but leave ourselves at liberty to object or approve, according as truth, justice, and the public good shall direct.

Mr. *Watkin Williams Wynn* spoke next:

Sir; I cannot but own myself to be entirely of the opinion of my hon. friend who spoke last. As speeches from the throne have been taken for the sense of the ministry, too lavish addresses from this House have been regarded rather as incense to the minister, than a just acknowledgment to the sovereign. But, Sir, I hope we shall always look upon ourselves as the trustees of the people, and endeavour to speak their sense in our addresses, as well as act for their interests in our proceedings. Though the expressions, Sir, proposed to be inserted in this Address, 'that 'we will carefully avoid all heats and animosities,' is to be sure, a very proper part

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of a resolution of this nature, and what I am persuaded every gentleman will willingly agree to; yet there have been instances, Sir, when from as well guarded expressions ministers have taken occasion to attempt the subversion of that liberty of debate, and freedom of speech, which ought to distinguish the representatives of a free people. Amongst such a people, Sir, an opposition always must, and perhaps it is their happiness that it does, exist. And, Sir, though it is to be wished that heats and animosities were banished from all opposition, yet I am afraid while men have different passions, different interests, and different views, this can scarcely be effected. The granting necessary Supplies for the current year, Sir, is what seems very reasonable and indispensable in a House of Commons. But, Sir, I believe there are instances when, in former reigns, the Commons have refused to grant a shilling for the services of the current year, till they were sure the money granted for the services of the preceding had been properly applied. Besides, Sir, the true old parliamentary method of proceeding, was not immediately to vote an Address of Thanks for every thing the minister had done during the intermediate time, right or wrong, but to appoint a day for examining the grievances of the nation; and redress of these was always insisted on before any Supplies were granted. No House of Commons had ever greater reason than we have to be frugal of the public money, and to enquire in what manner it has been applied. We have already granted to his Majesty sums sufficient to have enabled the ministry to put the nation into such a situation, that she might have nothing to fear from any enemies either at home or abroad; and consequently to have diminished the taxes, and eased the people of some part of the unsupportable load of debt they now lie under. If, upon enquiry, it shall appear that they have acted in this manner; if it shall appear that the people have so much as a prospect of relief from their present pressures, I shall think the sums we have already granted, not only well bestowed, but shall concur with any motion that may be made for our granting the like in time to come. But, Sir, notwithstanding the sums we have already granted, if the public debt, instead of being diminished, is daily increasing, if it shall appear that any part of it has been applied in promoting the arts of corruption, and betraying the nation; I think it is our duty to put a stop to any such grants for the future. In the mean time, Sir, I am as forward as any gentleman here, that we should condole with his Majesty on the irreparable loss of the late Queen, and that we express our resolution of losing no occasion of testifying our zeal for the support of his government, and the preservation of our excellent constitution; nay, of our going the greatest lengths for securing the crown in his Majesty's person and family. But, Sir, give me leave to say, that the readiest way to make these engagements good, is by reserving to ourselves a right of enquiring into any misapplication that may have been made of the public money and credit, and by determining to let the world see that we are resolved to do as much as lies in our power for making his Majesty the sovereign of a great, a happy and an uncorrupted people.

Sir *William Yonge* said:

Sir; I really thought that the terms in which the honourable gentleman who spoke first, proposed we should address his Majesty, were so decent, and so expressive of our veneration for the memory of the late Queen, as well as of our affection for his Majesty's person and his illustrious family, that they were unexceptionable. Therefore, I am surprised, that gentlemen should take occasion from them, to throw out any insinuations against the present administration; because, perhaps, there have been corrupt administrations in former times. When gentlemen seem to doubt, if we should assure his Majesty, that we will readily and effectually raise the supplies necessary for his Majesty's service, because the public money has been formerly misapplied, they may doubt, whether we should condole with his Majesty on the death of his royal consort; because there have been Queens, whose loss the nation had no reason to regret. If there has been any misapplication of the public money, Sir, it will be time enough for gentlemen to produce their objections, when the Bills for providing for the supplies of the current year come under our consideration: But, Sir, I can, by no means, think that this is a time for starting these objections, on the very first day of a session, and immediately after his Majesty has recommended unanimity in our proceedings from the throne. If it shall appear, Sir, that any demands that shall be then made, are unnecessary, gentlemen are not precluded by the terms of the Address, now proposed, from start-

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ing their difficulties; because, by it, we only promise to grant such supplies as shall be necessary. I shall make no doubt but the two honourable gentlemen who spoke last, have lived under a very corrupt and very dangerous administration in this nation; an administration, that by a scandalous abuse of their sovereign's power, must have sunk us in the esteem of all nations abroad, and entailed superstition and slavery on us at home, had not Providence and the counsels of a subsequent administration interposed. But, Sir, till the honourable gentlemen shall prove that we are now in the same despicable circumstances, I think there can be no objection to our resolving upon an Address in the terms proposed by the hon. gentleman who made the motion.

The Commons' Address of Thanks.] The following Address was then agreed to:

"Most Gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return our most humble and grateful Thanks for your Majesty's most gracious Speech from the throne.

"To speak our utmost sense of the great loss your Majesty and these kingdoms have lately sustained, would be to revive and aggravate, what we wish to alleviate and dispel; but we hope your Majesty will pardon the intrusion of our sincere condolance, when you reflect on the double duty, by which we are bound, as affectionate subjects to your Majesty, and as representatives of the people of Great Britain, not to pass over in silence this object of your distress, and their universal mourning.

"When we reflect on the amiable private character of that great princess, on her personal and domestic merit, as an indulgent and instructive parent, a mild and gracious mistress; or, with regard to your Majesty, as uniting in one all the different characters of the most pleasing as well as constant companion; the most able as well as the most faithful friend; the most tender as well as the most observant wife; when we reflect on these circumstances, we mourn her loss, as the greatest with which your Majesty and your royal house could have been afflicted: but when we turn our thoughts to her great and public virtues, her love of justice, her attachment to the laws and principles of this wise and happy constitution, her extensive charities, her boundless benevolence, her succour to distress, her favour to merit, her lenity to all. When we consider these parts of her high character, it is no longer for particular and personal causes that we grieve; it is a national loss we lament.

"If a due submission to superior authority, and a due exercise of power, when committed to her hands, are the strongest marks of excellence in both parts of government; and if these justly claim praise and admiration; how can we sufficiently praise or admire her conduct, either in the presence or absence of your Majesty? In the first we saw the most constant compliance with your will; in the last, the true representation of him, with whose delegated authority she was vested; for all her acts were great, and wise, and good; alternately we beheld her submission in this character, and felt her mildness in the other; and great as the distance may seem from command to subjection, the transition to her was easy, whose abilities were equal to any situation, and whose temper could conform to all; as resigned to the duties of a queen consort, as capable of the high office of guardian of the realm; as ready to submit, as able to command, and equally an example to all sovereigns, when she ruled, and to all subjects, when she obeyed.

"And though your Majesty's just and great concern on this occasion, would perhaps receive no extenuation from the comfort your faithful Commons might vainly try to administer; yet, that nothing may be wanting on our parts, which may contribute to the making your Majesty's government (the source of our prosperity) as easy to yourself, as it has ever been to your subjects; we do assure your Majesty, that we will not only carefully avoid all heats and animosities, but will, with the greatest readiness, effectually raise the supplies necessary for the service of the current year; and, with a zeal and affection becoming the representatives of a grateful people, make all necessary provisions for the honour, peace, and security of your crown and kingdoms; demonstrating to all the world, that the support of your Majesty's government, and the public safety, are constantly our care; and that we desire nothing more than the preservation of our wise and excellent constitution in the same happy, firm, and envied situation, in which it was delivered down to us from our ancestors

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and your Majesty's great predecessors.

"But whilst by these means we endeavour to prevent any additional disquiet from approaching your royal person, we must beg leave to lay again before your Majesty the anxious grief of your whole people, together with their most humble and earnest wishes, that your Majesty's known resolution may aid time, in alleviating your sorrow for that loss, which nothing can repair, and in restoring to your Majesty that tranquillity of mind, which can alone free us from the most solicitous fears for a life, on which the happiness of your royal family, and of this afflicted nation, so immediately depends."

The King's Answer.] The King's Answer was as follows:

"Gentlemen,

"I return you my thanks for this dutiful and very affectionate Address: I am so sensibly touched by this convincing proof of your particular regard to me, that I am not able, in this distress, to command myself sufficiently to express the just sense I have of your affection and concern for me upon this occasion."

Debate in the Commons on the Reduction of the Army.] Feb. 3. Sir Charles Turner being in the chair, in the Committee of the whole House, to whom it was referred to consider further of the Supply granted to his Majesty, it was moved, "That the number of effective men to be provided for guards and garrisons in Great Britain, and for Guernsey and Jersey, for the year 1738, be, (including 1,815 invalids, and 555 men, which the six independant companies consist of, for the service of the Highlands) 17,704 men; commission and non-commission officers included." This being objected to, a debate ensued,

Mr. *George Barclay* spoke to the following purport;

Sir;—It is very extraordinary, that a resolution like this should be offered to the Committee, after the multiplicity of treaties, conventions, negotiations, and other measures that have been lately carried on with almost every court in Europe. I believe, Sir, there is not a man in the nation, except those who are under the direction and influence of the ministry, or in the secret of affairs themselves, which I hope never to be, but expected, after we had been so long amused with the fine effects that our pacific measures were to produce, that they at least would be attended with a reduction of the numerous forces that are now on foot: but so far from that, Sir, an addition, it seems, instead of a reduction, is to take place. For my own part, I never was at pains to enquire what the proper number to be reduced is, because I own very frankly, that I have always been against any Standing Army in time of peace, as a thing unknown to the laws and constitution of Britain, and destructive to the liberty of her subjects. Such, Sir, was always the language of this House, while we had a government which understood how to make the nation formidable abroad, by preserving to the Prince on the throne the love and affection of his subjects at home. But this, Sir, is an art that seems to have been lost in Great Britain: but if our ministry have lost the art of making themselves beloved, they seem resolved to make themselves feared by the people.

I have heard it said, Sir, that if we do not keep up a standing-army, every thing must run into confusion. Sir, I am one of those who think that a standing-army is worse than the worst confusion; and if order is to be preserved amongst us by a standing-army, I could wish that things were to run into confusion, because out of confusion order might arise. Therefore, Sir, I am absolutely against the present motion. But if gentlemen who have considered the thing perhaps more than I have done, shall propose a number which may not be dangerous to the liberties of the people, I shall not be against the motion.

Mr. *William Hay** spoke to the following effect:

Sir; Gentlemen, when they talk of negotiations and treaties, speak as if a minister were to be as sure of the success of the event which depends upon various and impossible-to-be-foreseen accidents, as he could be of a mathematical proposition. I am as much against a minister's running into an idle, or an improbable scheme of negociation, and against his amusing the

* "Mr. Hay was born at Glenburne, Sussex, about 1700, and educated at Headley school. In 1734, on lord Hardwicke's promotion, he was elected member for Seaford, which he represented till his death. He espoused the cause of sir Robert Walpole, whom he defended in some pamphlets, and by whom he was rewarded with the place of commissioner of the Victualling office. He died 19th June 1755. He

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nation with groundless hopes of success, or putting it to unnecessary expences, as any gentleman here. But, Sir, ministers are to answer for the reasonableness, and not for the event of their measures: it is unjust to suppose them to be endued with the spirit of prophecy, so as to foresee contingencies, to prevent deaths, or guard against every accident that may happen; and I believe, Sir, if we do not suppose this, and if we coolly and impartially examine the conduct of our ministry for some years past, we shall find they have acted as prudent and as rational a part, as the wisest ministers the hon. gentleman can instance in any period of our history. Sir, if the hon. gentleman will engage to shew me one step made by the administration that has been unsuccessful purely from the fault of our ministers, I will engage to shew him three in any other reign that he shall be pleased to pitch upon. So that, Sir, unless gentlemen come to the point, and instance some particular part of conduct that is blameable in our ministry, all these loose general reflections must go for nothing; because they may be equally applied to a good, a bad, or an indifferent ministry. But, Sir, I own this a deviation from the present question, which is, whether the number moved for, is the number proper to be kept up at this juncture? Sir, I have as little reason as most gentlemen in this House to wish for the continuance of any tax or imposition upon the people: I am sure I may lose, but never can gain by it. But I am for continuing the present number of forces, because at present I enjoy both my fortune and my liberty; and should we break or reduce our forces to the number the hon. gentleman seems to wish for, I should not be sure of enjoying either of these advantages till next session. This, Sir, I speak from the experience I daily have of the present temper and disposition of the people without doors. Every rank and degree of our commonalty is so tainted with dissatisfaction against that government under which we enjoy liberty to as full and great a degree as any people ever did, that I dare say, were it not for our army, we should soon see our constitution ruined, and this House rendered useless. In this sense it is, Sir, I vote for the present motion; because our army serves at present to defend both my fortune and my liberty: for I dare affirm, that no man who enjoys either, can be sure of them an hour longer after things go into confusion, or after the succession to the crown in the present royal family is set aside. I shall not pretend to account to the House for this general dissatisfaction and degeneracy; but, Sir, one visible, and I believe, the principal cause of it, is the exorbitant liberty, I should rather call it licentiousness, of the press. The press, Sir, give me leave to add, when it is under proper regulations, is one of the greatest advantages of a free people; but when prostituted to dissatisfaction, ambition, or revenge, it becomes the nuisance of a government. The last, Sir, happens to be the present state of the liberty of the press in Great Britain; no rank or character has been secure from the invenomed attacks of the pretended friends to liberty; and Sir, as no people in the world are fonder of being acquainted with the politics of their country than ours are, it requires no uncommon strength of parts or genius to debauch them into a bad opinion of the best prince or minister that ever was; it is but telling them, 'You are the judges of the conduct of the administration; it is you that furnish the expences of our fleets and armies, and therefore the ministry ought not to make one step without your concurrence and advice.' Sir, there is not a shopkeeper, nay not a porter in the streets who does not understand these arguments, who does not think himself qualified to be a minister of state, and that he has as good a title to judge of the measures of the government, as any gentleman in this House, or all the gentlemen taken together. Any man who flatters the vanity of a mob, will always have that mob on his side. This, Sir, seems to be the true, and the only merit of all the scribblers against the government: and if the people feel any inconveniency from the number of forces kept up, it is owing to them; for both prudence and necessity oblige the government not to part with their present force, for these writers have but too good success in poisoning the minds of the people: I say, Sir, necessity obliges us to it; for if

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wrote 'Religio Philosophi,' &c. a Translation of Hawkins Browne's De Immortalitate Animæ—The Epigrams of Martial modernized, &c., besides an Essay on Deformity, in which he descanted with humour and liveliness on his own personal imperfection, observing, that of the 558 members of the Commons' House, he was the only man of bodily deformity. His son was equally deformed, and was cruelly put to death by Cossim Ally Kawn, at Patna, 1762. Hay's Works were published by his daughter, 2 vols. 4to, 1794." Lempriere.

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you continue the liberty of the press, so as to protect every scribbler, who perhaps is hired to spirit up the people against their governors, there is a necessity that you should continue your army. But, Sir, I am far from insinuating as if we were in any danger from the liberty of the press: no, it is the licentiousness of the authors, and not the liberty of the press that we are to dread; and till such time as some effectual stop is put to that licentiousness, I shall be against making any reduction of our forces.

Mr. *Shippen* next spoke thus:

Sir; The hon. gentleman who spoke first for the motion, has indeed made the best excuse for the ministry that can be made; ministers are but men, sometimes weak men; and though it would be unjust to suppose them endued with a spirit of prophecy, yet, I think they should at least be possessed of a tolerable share of prudence. I should not indeed wonder if one or two measures went wrong upon a minister's hand, through unavoidable accidents; yet, I think it strange that every measure should go wrong, that not one of the numerous expedients that have been set on foot for securing the tranquillity of Europe, or providing for the security of Great Britain, should prove effectual. Sir, I own that gives me strong apprehensions of what I am not inclined to express on this occasion. I own that, with the hon. gentleman who spoke first on this motion, I was apt to think that the round of negotiations and treaties we have been carrying on for these ten or twelve years past with all the powers in Europe, might have procured us at least some respite from a burden which our forefathers never knew: I mean, Sir, that of a standing-army; I call it a standing-army, because it has continued for these many years, and we have always been told the same things over and over again, as reasons why it is continued. I have, during many years, told the House every session that we should have a return of the very same reasons next session; but gentlemen never seemed to believe me, though they have hitherto found my words but too true. Now, Sir, as the same causes have subsisted for about these forty years, without being any worse for the wearing, I am apt to think they may subsist forty years longer; and while the same causes subsist, the same effects must follow; so that in reality a standing army may be thought as much a part of our constitution, as the most lawful prerogative, or privilege, which either prince or people can claim. But, Sir, though even the gentlemen who are most conversant in public affairs, will, I believe, be puzzled to find out one new argument in favour of a standing army, yet there is nothing easier than to bring twenty against it. The reason of this, Sir, is because it produces but one single good, which is the security of the administration; but it begets many inconveniencies, two of which are the impoverishing the people, and the increase of taxes.

And here give me leave to say, Sir, that no country can give more melancholy instances of the effects of a military force than England can. The very army which was raised by the parliament in defence of the subjects, against some encroachments made by Charles 1, upon their liberties, afterwards gave law to the parliament itself, turned its members out of doors, rased our constitution to the foundation, and brought that unhappy prince to the block. This catastrophe, Sir, was not owing to the people; for of them, nine parts in ten were well affected to the person and cause of the king, but to their army, which, like other wild beasts, turned upon and destroyed their keepers. After the restoration of the royal family, the prince then upon the throne raised a few guards, which never swelled to above 5,890, and yet so jealous was the nation even of that small number, that he could never get his parliament, prostitute as it was, to pass over one session without taking notice of them. This, Sir, was the more extraordinary, as the parliament was never asked for any money for their support, and the money which was then raised for the support of the government was nothing when compared to the sums that have been granted since. The next parliament proved as uneasy to him on this head as the former had been, and were so distrustful of his intentions, that they appointed commissioners of their own for applying the money granted for disbanding them, and it was paid into the chamber of London. Nay, Sir, as a further proof of the apprehensions the nation was under from a standing army, they came to a resolution, "That the continuance of standing forces in this nation, other than the militia, is illegal, and a great grievance and vexation to the people." I have mentioned this period of our history, Sir, to shew that notwithstanding the venality of that very

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reign, the parliament never could be brought to concur with what might one day overthrow both their own and the people's liberties. If the nation was then so jealous of an inconsiderable number, which did not cost it a shilling, ought we to consent to keep on foot so formidable a number as 18,000? Sir, it is in vain for any gentleman to say that the army is under the direction of a wise and a just sovereign, who will never harbour a thought inconsistent with the good of his subjects: I am as thoroughly persuaded of his Majesty's personal virtues as any gentleman; but an army, when it once finds its own power, may very probably refuse to take laws, even from that very sovereign under whose immediate direction they are. The parliament's army, Sir, was as absolutely under the direction of the parliament in the time of Charles 1, as any army is now under the direction of his Majesty, and yet, it is well known, they obeyed orders no longer than they found it convenient for themselves.

The period, Sir, from which we are to date the rise of our standing army in Britain, is the 9th year of the late king William, when the parliament granted an army of 10,000 men for the service of the current year. This was done in consideration of the powerful faction, at that time subsisting in the kingdom in favour of king James. And if ever a standing army can be of use at any time, it is at such a juncture. But nothing, Sir, could make so palpable an infraction of the subjects rights, as established by the Revolution, go down. Though this nation was then blessed with a prince that had hazarded every thing to free us from oppression and tyranny, and therefore could never be supposed to have any designs upon our constitution; yet many gentlemen, who were friends of the Revolution upon principles of liberty, with one consent remonstrated against a standing army, though but kept up from year to year, as subversive of the people's rights, and of the Revolution principles.

Some I know, Sir, who appeared early for the Revolution, were so much delighted with the sunshine of a court, that they joined in all its measures, though some of them were found to be directly opposite to the principles upon which the Revolution was founded; but we find that they who were ever acknowledged to be the sincere well-wishers of that cause forsook them, and could never be brought to concur with them in any one measure. On this account, Sir, these gentlemen were branded by some, who then sat in the House, with the names of Jacobites and Republicans, two denominations of men equally enemies to the present establishment. But, Sir, there was this difference betwixt their antagonists and them, that the former never refused to concur with any measure proposed by the court, and the latter never voted for any step that was disliked by their country.

Their late deliverance from a prince, who, by means of his army, aimed at arbitrary power, made them look back with so much horror upon the precipice they had just escaped, that there was an express proviso against standing armies in times of peace inserted in the Claim of Right, which we may in some measure call the last great charter of our liberty. I own that it gives me great concern to see gentlemen, who have always valued themselves upon treading in the footsteps of those who brought about the Revolution, act a part so inconsistent with the principles of their ancestors, by voting for this question. I know a set of men under a different denomination, who have always been more moderate in their pretences, but more steady in their adherence to these principles. I am not at all inclined to revive any party distinctions; but I will venture to say, Sir, that let any man compare the conduct of some gentlemen who have affected to pass for Whigs, with that of gentlemen who have always been looked upon as Tories, he shall find the latter acting a part most consistent with the Revolution principles. He will find them opposing the crown in every encroachment upon the people, and in every infringement of the Claim of Right. He will never find them complimenting the crown at the expence of the people, when in post, nor distressing it by opposing any reasonable measure when out. Can some gentlemen, Sir, who now affect to call themselves Whigs, boast of such an uniformity of conduct? can they say that times and circumstances never influenced the measures they pursued? or that when they were in posts, they always acted in consequence of the principles they professed when they were out? Sir, I believe I have sat long enough in this House, to convince gentlemen, if there were occasion, of very great inconsistencies in certain characters. But, Sir, I forbear it, because the eyes of some of these gentlemen seem to be now open, and I hope these distinctions are, in a great measure, ei-

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ther entirely abolished or better understood.

As no question, Sir, is of greater importance, so none has been so frequently debated in this House, as the present. Yet I never heard any gentleman make a doubt that a standing army in time of peace was a grievance to the people of Britain. But, Sir, the Tories always opposed this grievance. When his late Majesty had, upon the rebellion against him being suppressed, for the ease of his subjects, ordered 10,000 of the troops to be disbanded, I remember a particular friend of mine, who always passed for a Tory, proposed that it should be inserted in our Address to his Majesty on that occasion, "That nothing could more endear his Majesty to all his subjects, than the reducing the land forces to the old establishment of guards and garrisons, as his Majesty found it at his accession to the throne." This, Sir, happened in the 4th year of his late Majesty's reign, and had the Amendment proposed by my friend been agreed to, had his Majesty thought fit to have made the proposed reduction, or, rather, had he been advised by his ministers to have done it, and had the military establishment continued on that footing till now, we should have discharged upwards of twelve millions of our national debt, and yet have enabled his Majesty to have made good such engagements with his allies, as tended to secure the public tranquillity.

As to what the hon. gentleman, who spoke last, mentioned with regard to restraining the liberty of the press, and concerning the general depravity that obtains among the people, I shall leave him to be answered by other gentlemen, who can do it much better than I. But, I agree with the honourable gentleman so far, as to own that the people are at present very much dissatisfied: and, as I think, that ferment ought to subside gradually, I am willing to give my vote for a larger number of forces this session, than perhaps I may think necessary to be kept up the next. I therefore move, That the number of land forces for the service of the current year may be 12,000 men.

Lord *Noel Somerset* * said:

Sir; As the question now before you is a question of such importance, as that every gentleman who votes in it, ought thoroughly to understand the nature of our constitution, I must beg leave to explain to you what I take to be the true and genuine form of our government, before I attempt to give my opinion upon the question. I know there are many gentlemen in this House who understand our constitution better than I can pretend to; I believe every one understands it as well, and I hope every one has as great a regard for it: But I think myself obliged to explain to you the notions I have of our constitution, because most of the arguments I shall make use of in favour of the present question, are such as naturally flow from these notions; and if I am wrong in any of them, I am sure I cannot utter them in a place where I can expect to have them corrected with more ability, or with greater candour.

Government, Sir, is an evil which the perverse nature of some has obliged all to submit to. Mankind, for the sake of preserving their lives, and the fruits of their labour, against the invasions of the wicked and rapacious, have been obliged to form themselves into societies, and to promise obedience to the civil magistrate; but that which was intended for protecting the people of the society, is often made use of for their oppression; and instead of being a bridle upon the inclinations of the wicked, it often serves to strengthen their hands, by tying up those of the innocent. To prevent this fatal effect, many sorts of governments have been invented by men, all of which may be resolved into these three, to wit, the monarchical, the aristocratical, or the democratical; for every form of government must either be a monarchy, an aristocracy, or a democracy; or it must be a mixture of some two of these, or of all the three.

By experience, Sir, it has been found, that when the supreme power is lodged either in a sole monarch, or in a set of nobles, it often deviates into tyranny; and that when it is lodged in the people in general, there is no possibility of preventing it from running into anarchy; and the next step which follows is commonly a monarchical or aristocratical tyranny; especially, if the people of the society be numerous, and their dominions extensive. For this reason many various sorts of mixtures have been contrived by law-givers; but of all the mixtures that ever were contrived, that of an equal mixture of the three, is, I believe, the best, and most lasting. How our ancestors, the Germans,

* From the London Magazine. See the Preface to the present Volume.

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hit upon this mixture; whether it proceeded from their experience, or from their natural sagacity, I shall not pretend to determine; but, it is certain, that from the earliest accounts we have of them, this appears to have been the form of government generally established among them. The supreme power among them was always lodged in an assembly of their king or general, their nobles or chiefs of families, and their people or soldiers in general. In this assembly all matters of great importance were considered and determined; the king and nobles proposed and resolved, and the people consented or disapproved. The powers and privileges of these three branches of their legislature, were not perhaps so distinctly ascertained as they are by the present form of our constitution; or if they were, no certain account of them has been handed down to us; but it is plain that the same spirit, upon which our present constitution is founded, was the prevailing spirit in their form of government; and this spirit may be traced from the beginning of our history to this very day.

The spirit I mean, Sir, is to have in our form of government such an equal mixture of the monarchical, aristocratical, and democratical forms of government, that each may prove a proper counterpoise to the other, in such a manner, as that all these three constituent powers may continue equal and independant. If they do, any one of them may, and always will, be a guard for our constitution and for our people, against the violence and oppression of both, or either of the other two. If our king should resolve to make himself absolute, or if he and his ministers should begin to oppress the people, both this and the other House would certainly join together, in opposing such schemes; if the other House should begin to set themselves up as sovereign and arbitrary masters of our government, the King and this House would certainly join against them; and if this House, as perhaps has been the case, should begin to set ourselves up as masters, the King and the House of Lords would as certainly join against us, and probably, by means of a dissolution and new election be able to prevent every fatal consequence. Again, if any two of these branches of our legislature, should join together in any scheme for oppressing the people, they could not carry their scheme effectually into execution without the concurrence of the third; but on the contrary, that third branch of our legislature, with the assistance of the people, would probably be able not only to disappoint, but to punish the authors of such a scheme.

Therefore, Sir, while our constitution remains entire, while the three constituent parts of our form of government remain equal and independent, our people can never be oppressed, nor can a barefaced arbitrary power ever be established. From hence every one may see, that from our constitution, considered in itself, without any undue influence, we can have nothing to apprehend; the only danger we are exposed to, is, that of its dissolution; and for this reason we ought to consider carefully, and guard watchfully against all those methods by which it may be overturned. The only methods by which our constitution can be overturned, and consequently the only evils we have to guard against, is lest any one of the branches of our legislature should get the absolute direction of the other two, and lest any one, by a dissolution or discontinuance of the other two, should be able to assume to itself an absolute and arbitrary power. As the power of calling, proroguing, and dissolving the parliament, is lodged intirely in the crown, as the execution of our laws is now more fully and extensively lodged in the crown, than it was by the antient form of our constitution, and as his Majesty is provided with a very large revenue for life, I cannot think there is the least danger, that either House of Parliament will become able to prescribe to the other and to the King; therefore, we are at present in no danger of either House of Parliament's ever getting the absolute direction of the other two branches of our legislature, as was once the case in this nation.

But, Sir, that the crown may be able to get the absolute direction of both Houses of Parliament, and may consequently make both intirely dependent upon the king, or rather upon the king's ministers, for the time being, I must think we are at present in some danger: nay, I must say, I think we are in such danger, that I am afraid nothing preserves us from it but his Majesty's known wisdom, justice, and moderation. I have, I confess, such a bad opinion of mankind, that I believe the generality of them will sacrifice the public good for their private advantage, often for a very trifling private advantage, especially when they can do it, without bringing immediate infamy and reproach

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upon themselves. This, I am sorry to say it, is my opinion of the generality of mankind; and considering what vast sums of money, and what a vast number of lucrative posts and employments, of all sorts and sizes, the Crown has to bestow yearly, and what extensive powers have been put into the hands of the Crown, by the many penal laws lately enacted, I am much afraid that if his Majesty would allow his ministers to apply them towards managing and purchasing votes at elections, or even in Parliament, it would soon come to be in the power of the Crown to direct both Houses of Parliament; for if the voting at elections, or in Parliament, from corrupt considerations, should once come to be frequent, the frequency of the crime would extenuate the guilt, and the multitude of criminals would smother that reproach, which now so deservedly attends such an infamous practice.

By such means, Sir, and by such a general depravity, the Crown may acquire a decisive influence, if not the absolute direction of both Houses of Parliament; and if it should, our constitution would be undone, our government would become an absolute and an arbitrary tyranny; it would become one of the worst, one of the most oppressive and wicked sorts of tyranny; because the Crown would be obliged to oppress the people, in order to be able to corrupt the electors, that at least the outward show of our antient constitution may be kept up. This, I say, Sir, would be our case, if the Crown, by means of posts and employments, and other favours it has to bestow, should get the absolute direction of both Houses of Parliament; and every gentleman knows how greatly our army adds to the number of those lucrative posts and employments, and what an influence the commissions in our army may have upon some of the best families in the kingdom; a consideration that of itself is sufficient to put gentlemen upon their guard against too numerous a standing army.

But, Sir, with respect to the safety of our constitution, this is not the only bad effect of keeping up a large standing army. Suppose that some future king, for we can be in no such danger from the present, should by corrupt means get the absolute direction of both Houses of Parliament, and that by the same means he should disappoint the people of obtaining redress upon a new election, what could the people then do for vindicating their liberties and restoring their constitution? They could not propose to do it by any legal means; they could have no recourse to any thing but the *ultima ratio regum*, which upon this occasion I shall beg leave to call the *ultima ratio populi*. No man could then, either for the preservation of his life, his liberty, or his estate, put his trust in the laws or constitution of his country; he could put his trust in nothing but the success of his arms; and if the people, upon so just an occasion, should fly to arms, what an advantage would the tyrannical government have over them, by having a numerous mercenary army, well disciplined, well armed, and ready to march at an hour's warning, against any number of the people that should dare to assemble in arms, for vindicating the liberties and constitution of their country. This every future government, Sir, will be sure of having, if we shall thus every year, without any apparent necessity, agree to continue so great a number of forces on foot; because then a standing army will soon be looked upon as a part of the constitution. Gentlemen may exclaim as much as they please against mobs, tumults, and insurrections: I shall grant it as an unlucky thing for a country to have any such; but it is rather a sign of the government's wanting wisdom and justice, than of their want of power, because insurrections are most frequent in the most arbitrary governments. In a free country, an insurrection may become just and necessary, and if you give your government a power sufficient for suppressing such an insurrection, the same power must necessarily be sufficient for establishing arbitrary power; from that time, perhaps, you may not be troubled with any insurrections among the people; the only insurrections you are then to dread, are insurrections among those slaves, or, if you will, that soldiery which you maintain for holding the people in slavery; and these insurrections will be as frequent, and as dangerous to those in power, as the insurrections among a free people can possibly be.

Let us consider, Sir, that since all our military tenures have been annihilated, and our people become altogether unaccustomed to military discipline, and unprovided with arms, a much less numerous standing army may now be sufficient, for keeping the people in a slavish subjection, than would have been necessary for such a purpose in former times. If the case

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have mentioned should happen, if an ambitious prince, or wicked minister, should manage so as to get, by corrupt methods, the absolute direction of both Houses of Parliament, and that there were no method left for vindicating the rights and liberties of the nation, but by force of arms; give me leave to say, Sir, that by the Revolution principles, it would be very lawful to resist such a government; but if it had a standing army to support it, they could not be able. And if they should attempt to do it and fail, every man amongst them would be as liable to be hanged and forfeited by law, as those who enter into any plot against the most just and lawful government; therefore, it would be extremely dangerous, I believe absolutely impossible, to carry on any general concert, or to provide arms for such a purpose; and as there is now no great man, nor, I believe, any two great men, in the kingdom, who are able to bring any considerable number of armed men into the field, without a previous concert for that purpose among a great number of persons, therefore it will always be easy for our government, with a small number of regular troops, to crush any insurrection before it can come to a head; whereas, whilst our military tenures continued, any two or three of our great men joining together could, without any previous preparation, or communicating the secret to any other person, bring a numerous army of well disciplined and well armed men into the field against the government; so that a standing army cannot be said to be so necessary now as it was then, and yet our government was then supported, our laws executed, and the peace of the kingdom preserved, under every just and wise administration, without a standing army, as well as it has been since, or will ever be, with the most numerous standing army we can propose to keep up. The only difference is, that in former times, if the people did not find a proper redress in the laws and constitution of their country, they generally found it in the superiority of their arms; but if they give those arms out of their hands, and put them into the hands of a standing army, they can, upon such a melancholy occasion, no where expect redress; for the very men, in whose hands they have put their arms, will always be under the direction of those against whom they have reason to complain.

From what I have said, Sir, I hope it appears to gentlemen, that the preservation of our constitution, and the happiness of our people, can depend upon nothing but the honour of the gentlemen of our army; and whatever regard and esteem I may have for those who are at present the officers of our army, yet when I consider how easy it is for a wicked minister to garble and make the army fit for his purpose, I must think the honour of a mercenary army but a precarious dependence! a dependence which the people of this nation ought never to rely on, because, by our present establishment, that army must be under the absolute direction and command of that sort of men, who have always been, and always will be, the greatest enemies to our liberties and constitution.

I have now, I think, shewn, Sir, that a standing army may be extremely proper, not only for enabling some future king to get the absolute direction of both Houses of Parliament, but also for preserving to him that direction against the only method the people can, in such a case, take for regaining their liberties, and restoring their constitution, therefore a standing army may greatly contribute towards rendering fatally successful, one of the methods by which I have said our constitution may be overturned; I mean, that of one of the branches of our legislature's getting the absolute direction of the other two. Let me now consider the only other method, by which I have said our constitution may be overturned, which is, that of one of the branches of our legislature's assuming to itself an absolute and arbitrary power, by the dissolution or discontinuance of the other two.

Here likewise, Sir, I must think our constitution not in the least danger from either House of Parliament; because the King can put an end to their assembling, by a prorogation or dissolution, whenever he has a mind; and because no such thing can be done without an army, the general of which would very probably do the same thing Oliver Cromwell did; therefore we can hardly suppose that either House of Parliament can, or will attempt any such thing: But if ever our parliaments should become refractory, and begin to oppose the measures of the court, or attempt to bring to justice any of those minions who they have reason to think have advised their master to take unconstitutional measures, we have great reason from experience to apprehend, the court favourites would do as they have always done; they

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would endeavour to persuade the King to dissolve the parliament, and to assume to himself an arbitrary power, by governing without any parliament at all. This has been often before attempted, and it must be granted, the crown has now a greater probability of success in this way, than it ever had before, because of the great revenue now settled upon the crown, and the great revenue yearly coming into the exchequer, for paying the interest and principal of our public debts; for after a minister has passed the Rubicon, by advising a king to reign without a parliament, he will certainly make as little scruple to seize upon the sacred public treasure of Britain, as Julius Cæsar did to seize upon that of Rome.

Under his present Majesty we have not, it is true, Sir, any such danger to apprehend; because his wisdom and goodness, and the regard he has for our constitution, will always be more than a balance for any such wicked advice. He will consider, that, though by our constitution the King can be guilty of no crime, yet by endeavouring to overturn the constitution, in order to skreen a favourite criminal, he may bring the resentment of the people upon himself, and that the people's resentment may, upon such an occasion, exceed the bounds of our constitution. But as the same civil list revenue will, unless some very favourable opportunity shall present for lessening it, probably be continued to his Majesty's successors, and as the same taxes must be continued, I am afraid, for many years, before all our public debts can be paid off, therefore the crown and exchequer will, perhaps, for several generations, be provided with the same yearly revenues; and as we cannot promise ourselves the happiness, that all his Majesty's successors will be indued with the same wisdom and goodness, we ought not to add to these temptations, the temptation of having a numerous standing army to depend on. Give me leave, Sir, to suppose, that the House of Commons, in some future reign, should enter into a strict enquiry, with respect to some of the measures of the administration; that upon the issue of such an enquiry they should order some of the ministers to be impeached; and that those ministers, for their own preservation, should advise the king to dissolve the parliament, and seize upon all our funds: the most powerful argument an honest man at court (if there should be any such) could use against this advice, would be to say: 'Sir, if you do this, your people will take arms against you; the city of London will rise in arms, and perhaps tear you as well as your ministers to pieces.' Would not it be a good answer to say? 'No, Sir, you have nothing to fear from your people; they are unaccustomed to arms, and unacquainted with military discipline; you have a numerous and well disciplined army to depend on; and if any of the officers should hesitate in the least to obey your orders, you may have them immediately shot, and give their commissions to their serjeants or corporals: you may protect your own honour, and the lives of your faithful servants, by means of your army; whereas if you make a sacrifice of any one of us to a factious parliament, you do not know when or where they will stop.' This, Sir, would certainly be the answer that would be made by guilty ministers; and I must leave gentlemen to consider, what an effect it might have upon a weak king, and a guilty cabinet council.

Now, Sir, give me leave to suppose, what I hope never shall happen, that any future weak king should follow such a wicked advice; what remedy could the people have? what method could they take for vindicating their liberties and privileges? would it be possible to contrive any other method than that of open force? and in the circumstances the nation is now in, can we suppose that such a method would be practicable, if the court had an army of 18 or 20,000 well disciplined mercenary troops to depend on? It signifies nothing to say, that the Mutiny Act would expire; or that the Land Tax and Malt Tax Acts would expire; and that therefore the court could not keep the army in order, nor be able to support the public expence, and pay the yearly interest growing due to the creditors of the public: the court would immediately set up the doctrine already too frequently talked of by some unthinking men, 'That the people were become so factious and seditious, there was no governing them but by arbitrary power; and that therefore it was become necessary to give the force of a law to his Majesty's proclamation.' This doctrine would be propagated through the kingdom, by the placemen and officers almost of every rank and degree; it would be greedily swallowed, I believe, by most of those called soldiers of fortune in the army; and I am afraid most men would chuse to submit patiently to an evil, for which they could not in all human probability see any remedy, and which

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there would be great danger in opposing. The Mutiny Act, the Land Tax Act, and the Malt Tax Act, would be continued by proclamation: and what soldier would dare to dispute the continuance of the first, if immediate death were to be the certain consequence of every such obstinacy, or mutiny, as it would then be called? What landed gentleman, or what master, would refuse paying his quota of the Land Tax, or the Malt Tax, if the collectors and officers were every where to come attended with a troop of dragoons, or a company of foot? Even the interest payable to the creditors of the public, upon those debts that were contracted to preserve our liberties, would be made premiums for enforcing the measures of the court; for if the court could pay, or refuse to pay interest to whomsoever they pleased, we may depend on it, they would pay no interest but to such as shewed themselves peaceable, obedient, and loyal subjects.

Thus, Sir, I think it must appear, that without a standing army, our constitution cannot possibly be irrecoverably overturned; and that with a numerous standing army, it may be in the power of the court to overturn it whenever they have a mind: at the same time I am not against our keeping up as many troops as may be found absolutely necessary for guarding us against any insult from abroad, or any disturbance at home. But I am fully convinced, that 18,000 is a much greater number than is necessary; for I hope it will not be said, we ought to keep up such a number as may be sufficient to defeat the most just and general insurrection of the people; and 12,000 is, I am sure, more than sufficient for apprehending smugglers, or seizing smuggled goods, for quelling any mob that can happen, or even for defeating any unjust and seditious insurrection; because if a spirit of sedition should begin to appear in any particular part of the kingdom, the greatest number of the troops must be quartered in that corner; and if a small number of men should unexpectedly fly to arms in any corner, it will always be easy for the government to augment their army, and provide for their defence, faster than the rebels can assemble, or provide for attacking them. This, I say, Sir, will always be the case, unless the discontent should come general and violent all over the kingdom; and in that case the people must be pacified by a change of ministers, or a change of measures: in such a case some soft and peaceable measures must be made use of for satisfying the people, and for removing those grievances they may have reason to complain of, which a free and independent parliament will always be able to effectuate; for surely no man will say, that for the security of those who have, by their folly or wickedness, raised such a general discontent, we ought to give them such an army as may enable them to overturn our constitution; because as the security of such men must always be absolutely inconsistent with our constitution, they will therefore certainly make use of that army for its overthrow.

The chief expeditions upon which our army has been of late employed, have been against smugglers and mobs; but, Sir, an army of 12,000 men will always be more than sufficient for quelling them. Therefore the only reason that can be assigned for keeping up a greater number, is the danger we may be in from foreign invasions. As to this, Sir, if we consider our happy situation, and the formidable squadrons of men of war we are able to put to sea upon a few days warning, we cannot possibly think ourselves in any danger as long as the government retains the hearts and affections of the people; for surely it cannot be said, that a foreign army of 4 or 5,000 men, even with the assistance of some few of our countrymen, who may then happen to be disaffected or seditiously inclined, would be able to conquer these three kingdoms; and if any of our neighbours should think of invading us with a much greater number, they could not do it without several months previous preparation, which we would certainly hear of, and by sending out a superior squadron, might lock them up in their ports, or sink most of their ships before they could approach our coasts; and in the mean time, we would have an opportunity of raising a land army sufficient to give them a proper reception, in case by any accident, they should have the good luck to escape our fleet at sea.

For this reason, Sir, I must be of opinion, we can never be in any danger of an invasion, as long as our government takes care, by a just and wise administration, to cultivate and retain the affections of our people; and if our people should, from the folly or wickedness of an administration, become generally discontented, the parliament, while it continues free and independent, will always be able to remove that discontent, by giving satisfaction to the people, and inflicting condign punish-

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ment upon those who have been the causes of their discontent. From whence I must conclude, that the keeping up of more than 12,000 men in this island, can never be necessary for the support of any government, but such a one as has overturned our constitution, either by corrupting our parliaments, or by ruling without any parliament at all.

Sir *Robert Walpole* spoke as follows:*

Sir; That the question now before you is a question of great importance I shall readily agree, and therefore it is with great concern, it is even with reluctance I attempt to speak upon it. I am convinced no reduction of our forces ought to be made; I am convinced the same number we now have ought to be kept up, at least for this ensuing year; and yet I do not well know how to give my reasons, or how to express myself on such an occasion: For as a standing army must always be expensive, and if it swells to too great a number, may be dangerous to the people, I could wish with all my heart that no such thing were ever necessary; but if we consider the present circumstances of this nation, and the present circumstances of every one of our neighbours, we must view a standing army in the same light, in which the honourable gentleman has told us society, or government itself ought to be viewed; we must look upon it as an evil which we are obliged to submit to, for the sake of avoiding a greater.

The hon. gentleman, who spoke last, Sir, has given us a very ingenious, and, I believe, a very just description of our constitution, and has with great judgment pointed out to us the dangers to which we are, or may be exposed; but I cannot think a standing army, constituted as our present army is, can be of any such dangerous consequence to our constitution as he has represented, were it much more numerous than it is at present. An army composed entirely of our own subjects, and commanded by gentlemen of the best families, and some of them of the best estates in the kingdom, and an army depending for its very being upon the annual consent of parliament, can no way contribute towards rendering the parliament altogether dependent upon the King or his ministers, nor can it contribute towards enabling the King to govern without any parliament at all. While our parliament meet regularly once a year, and are rechosen once every seven years, no gentleman of the army can propose to have a seat in parliament, unless he be a man of family and fortune in his country; and though a commission in the army may perhaps, and I hope always will, make a gentleman join with more alacrity than he would otherwise do, in supporting the government against factious complaints, or seditious insurrections; yet no commission will ever make such a man give his consent to any thing in parliament, which he may think oppressive upon the people, or which may, in his opinion, tend towards overturning our constitution.

As every such officer must have a great many friends and relations among the people, his regard for his friends and relations will prevent his joining in oppressive measures for the support of any administration; and as the happiness and security of his friends and relations, nay of his own property, depends upon the preservation of our constitution, it cannot be supposed he will, for the sake of any commission he can enjoy or expect, give his vote in parliament for any measure that may evidently tend towards the overthrow of our constitution. Therefore, while our army is commanded by such gentlemen as it is at present, it is not to be supposed it can contribute towards breaking the balance of the constitution; no sort of garbling, Sir, can be sufficient for this purpose, because if the commissions in our army should be given to men of no families or fortunes, it would be impossible to get any great number of them brought into parliament.

The only remaining danger therefore is, that our army may enable some future King to govern without any parliament at all; and as this would be a total overthrow of our constitution at once, it cannot be supposed that gentlemen of families or fortunes would unanimously join in supporting such a government: on the contrary, we must both from reason and experience suppose, that the greatest number of them would declare for their country, and would join in proper measures for restoring the constitution, and bringing to justice those ministers who had attempted its overthrow. This, I say, Sir, we must suppose would be the behaviour of most of those gentlemen of families or fortunes, who might at such an unlucky juncture be officers in our army; and as they will always have a great sway among the other

* From the London Magazine.

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officers and soldiers, we have no reason to doubt that they would be followed, as they were in the case of king James's attempt to subvert our liberties, by the greatest part of our army. From whence I have, I think, good reason to conclude, that whilst our army is commanded, as it is at present, by gentlemen of the best families and fortunes in the kingdom, it will always be so far from being dangerous to our constitution, that it must be looked on as one of its greatest securities.

An army, Sir, of foreign mercenary troops, or an army composed of the scum of the people, and commanded by men of no families or fortunes in the country, may contribute towards enabling a government to oppress the people, or to divest them of their liberties and privileges; and by such armies only an arbitrary and oppressive government can be supported. It was not, Sir, by an army entirely composed of Roman citizens that Julius Cæsar overturned the liberties of Rome: it was by an army which consisted, in a great measure, of the inhabitants of those countries which had been conquered by the Romans; and that army was commanded chiefly by Romans of mean families, or such as depended entirely upon the fortune and favour of their general. By such an army it was that Rome was brought into slavery, and by such armies the Romans were afterwards held in slavery; for the Roman emperors had always great bodies of people, who were neither natives of Rome, nor of Italy, in their pay, and by their means they kept in awe such of the Roman armies, as afterwards appeared in the least inclined towards restoring the liberties of the country.

At this day, Sir, the arbitrary and tyrannical government of Turkey is chiefly supported by an army of janizaries; an army of men who, so far from having any relations among the people, that few or none of them know who were their parents, or what country they were born in: and in our neighbouring country of France, we know that they have always great bodies of foreign troops in their pay, who have no relations among the people of France, nor any knowledge of, or concern for, the antient form of government in that kingdom. But as they have likewise a great army of natives, and that army generally commanded by men of the best families in the kingdom, therefore, though their present form of government be absolute, yet it is not so arbitrary and tyrannical as that in Turkey; for if their government should begin to oppress their people in a tyrannical manner, I believe every gentleman who knows the dispositions of the French officers, will allow that the greatest part of the native French officers and soldiers would certainly join with the people, and would probably get the better of such a government, though supported by all the foreign troops they have in their pay; so that the present government of France may be properly said to be supported by the justice and wisdom of its measures, rather than by its Standing Army, or the absoluteness of its form; and while the government in this kingdom follows the same sort of measures, it certainly ought to be supported not only by our army, but also by our parliament.

The only danger, therefore, Sir, we are exposed to by means of our army, is, lest some future ambitious King, or wicked minister, should garble our army, so as to make it fit for destroying the liberties of the people, and supporting an arbitrary and tyrannical rule. This is a danger we must always remain exposed to, as long as we keep up any thing like a Standing Army; but this is a danger which, I think, we are sufficiently guarded against, and, I hope, ever shall be, both by the method in which our present army is kept up, and by the smallness of its number. As our present army is kept up only from year to year, by authority of parliament; if this method of garbling should be begun before the end of a session of parliament, that very session could, and certainly would, not only take notice of it, but contrive some method for preventing it; and in this the parliament would certainly have the concurrence and assistance of every gentleman of the army, who happened then to have the honour of being a member of either House; for as they would probably be the first sufferers by such a garbling, they would be the most forward in taking measures to prevent it. Again, if this garbling should not be begun till after the session of parliament was broke up, it must be completed before the Lady-day following; because all the gentlemen of family or estate who might then be in the army, would, after the Lady-day following, certainly refuse to act as officers, without a new authority from parliament; and if all the officers of distinction in the army should be turned out at once, or in eight or nine months time, they would certainly join with the people in vindicating the

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rights of their country; and their sway in the army would for some time after their dismission remain so considerable, that in case of a civil war's breaking out, which would certainly be the case that very moment the government pretended to continue the army without the consent of the parliament, most of the soldiers would in all probability desert their new officers, in order to follow their old; by which means the regular troops would come to be at least equally divided; and the people, with the assistance of one half of the army, would in all human appearance get the better of the other half, which remained attached to the government.

But granting, Sir, that some future ambitious King, or wicked minister, should resolve to govern without a parliament, and to continue the army without any new authority from parliament; and likewise suppose that that army should, every man of them, officer as well as soldier, remain firmly attached to the government, and unanimously join in supporting such an usurped and tyrannical power, against those efforts which would certainly be made by the people, for recovering the liberties and constitution of their country; yet a body of 18,000 of the best regular troops that ever were in the world, would never be sufficient for supporting a government against the united force of the whole people of Great Britain: for though a small number of regular well-disciplined troops may, and do often, get the better of a much superior number of militia, or new-raised and undisciplined troops, yet 18,000 men could not stand against so many thousands of good men, though not experienced soldiers, as could be brought against them from the several counties of Great Britain: even suppose they should get the better at the two or three first battles or rencounters, yet their enemies would improve by every defeat; so that, as the Swedes did in the last war with the Muscovites, they might beat their enemy into good discipline, and by often defeating them, might teach them how to defeat in their turn.

From what I have said, Sir, it must appear, that our constitution can never be in danger of being overturned by means of an army, constituted as our present army is, and not more numerous than that we have now on foot. Such an army only preserves the constitution against faction and disaffection, and protects the people against domestic rapines and foreign invasions. And such an army, Sir, I am afraid will always be necessary to be kept up here. This naturally leads me to consider the several reasons we may now have, for keeping up the same number of regular forces we have at present; and as I have mentioned disaffection, I shall begin with that reason, which proceeds from the great number of disaffected persons we have still the misfortune to have amongst us. Suppose, Sir, we have at present nothing to fear from any foreign enemy, yet it cannot be said we are in absolute security, or that we have nothing to fear. There is one thing I am still afraid of, and it is, indeed, the only thing, I think, we have at present to fear. Whether it be proper to mention it upon this occasion, I do not know: I do not know, if I ought to mention it in such an assembly as this: I am sure there is no necessity for mentioning it, because I am convinced every gentleman that hears me is as much afraid of it as I am. The fear I mean, is that of the Pretender: every one knows there is still a Pretender to his Majesty's crown and dignity; there is still a person who pretends to be lawful and rightful sovereign of these kingdoms; and, what makes the misfortune much the more considerable, there are still a great number of persons in these kingdoms so much deluded by his abettors, as to think in the same way. These are the only persons who can properly be called disaffected, and they are still so numerous, that though this government had not a foreign enemy under the sun, the danger we are in from the Pretender, and the disaffected part of our own subjects, is a danger which every true Briton ought to fear, a danger which every man who has a due regard for our present happy establishment, will certainly endeavour to provide against as much as he can.

I am sorry to see, Sir, that this is a sort of fear, which a great many amongst us endeavour to turn into ridicule, and for that purpose they tell us, that though there are many of our subjects discontented and uneasy, there are but very few disaffected; but I must beg leave to be of a different opinion; for, I believe, most of the discontents and uneasinesses that appear among the people, proceed originally from disaffection. No man of common prudence will profess himself openly a jacobite; by so doing he not only may injure his private fortune, but he must render himself less able to do any effectual service to the cause he has embraced; therefore

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there are but few such men in the kingdom. Your right Jacobite, Sir, disguises his true sentiments; he roars out for revolution principles; he pretends to be a great friend to liberty, and a great admirer of our antient constitution; and under this pretence there are numbers who every day endeavour to sow discontents among the people, by persuading them that the constitution is in danger, and that they are unnecessarily loaded with many and heavy taxes. These men know that discontent and disaffection are like wit and madness: they are separated by thin partitions; and therefore they hope, that if they can once render the people thoroughly discontented, it will be easy for them to render them disaffected. These are the men we have most reason to be afraid of: they are, I am afraid, more numerous than most gentlemen imagine, and I wish I could not say they have been lately joined, and very much assisted by some gentlemen, who, I am convinced, have always been, and still are, very sincere and true friends to our present happy establishment.

By the accession of these new allies, as I may justly call them, the real but concealed Jacobites have succeeded even beyond their own expectation; and therefore I am not at all ashamed to say I am in fear of the Pretender: it is a danger I shall never be ashamed to say I am afraid of; because it is a danger we shall always be more or less exposed to; and, I believe, the less number of regular forces we keep up, the more we shall always be exposed to this danger. Yet I would not have gentlemen to conclude from hence, that I shall always be for keeping up the same number of regular forces we have at present: the number of Jacobites will, I hope, be daily decreasing: those who have been bred up in such principles, and are therefore governed by the prejudice of education, will die away by degrees, and some of them may perhaps, by the force of their own understanding, discover their error, and change their principles. This, Sir, we have the strongest reason for hoping, and the more, because I have the satisfaction to find, that few of the rising generation are in the least tainted with such erroneous and dangerous principles. In a short time therefore, I believe, we may with safety give the people a little ease, with respect to the annual public expence, by reducing a part of our army; but to make any reduction at present, would, in my opinion, be the height of madness. That which is now called discontent, would then appear to be disaffection; for I should expect to hear of the Pretender's standards being soon after set up in several parts of the island, perhaps in every one of the three kingdoms.

This, I say, Sir, would be the consequence I should expect from our making any reduction, while there is such a numerous party of disaffected amongst us; and though our neighbours seem all to be our good friends at present, though no one of them seems to have any immediate design of disturbing the tranquillity we now enjoy; yet it is well known, that there is no method by which friendship betwixt two nations is kept up so surely, as by each being in a condition to do herself justice, if the other shall insult her. Besides, Sir, were our forces reduced, who can say that we may not have some disturbances at home; and then it is natural for rival nations to foment the divisions, and assist the malecontents of one another. If there were no disaffected party amongst us, or if that party were inconsiderable, no foreign power would dare to invade us; because such a number of transport ships as is necessary for invading us with a great army, could not be provided without our being advised of the design; in which case we could render their design abortive by the superiority of our fleet; and to invade us suddenly with a small number of forces, could do us little or no mischief, nor could it do our enemies any service. It would be like rouzing a lion to revenge by the prick of a needle. But whilst there is such a considerable disaffected party amongst us, nothing can secure us effectually against small and sudden invasions, but a sufficient number of regular forces ready to march at an hour's warning. Five or six thousand men may be embarked in such a small number of ships, and so speedily, that it is impossible to guard against it by means of our fleet. Such a number may be landed in some part of the island, before we can hear of their embarkation: and if such a number were landed, with the Pretender at their head, there is no question but that they would meet with many, especially the meaner sort, to join them. In such a case, we could not march our whole army against those invaders and their assistants; because, if we should draw all our regular forces away from the other parts of the kingdom, the disaffected would rise in every county so left destitute of regular troops; and the

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rebels being thus in possession of many parts of our sea coasts, would be continually receiving supplies, by single ships, from those who had at first invaded us.

Thus, Sir, a civil war, at least, would be entailed upon us, and might continue for several years. The government might probably, by good luck and good management, get the better at last; but it is much better not to put it upon that issue; for it would not be without danger, and putting the nation to a much greater expence, than it could be put to by keeping up a small number of additional troops for many years, I may say for many ages. Against this danger there is no possible way of guarding absolutely, but by keeping up such a number of regular troops, as that we may spare to send six or seven thousand of them against any small and sudden invasion that can be made upon us, and yet leave in every other part of the kingdom, especially the most disaffected, a number sufficient for preventing the designs of those who want only an opportunity for rising in arms against the government: and for this purpose, considering the number of the disaffected we have still the misfortune to have amongst us, I must think 18,000 is the smallest number we can in common prudence keep up; for we must always keep 5 or 6,000 about our capital, otherwise our government may be in danger of losing even that, and with that all its treasure, and thereby our fleet itself may be turned against us; I am sure 5 or 6,000 more is the smallest number that can be thought necessary for being dispersed in the several parts of the kingdom, in order to keep the disaffected in obedience.

This I say, Sir, is the smallest number, we can in common prudence propose to keep up, as long as there is such a considerable disaffected party amongst us; but when that party is entirely evanished, as I hope it will be in a few years, we shall then have no occasion for any more than are necessary in any part of the kingdom, for keeping the disaffected in awe; we shall have no occasion for any more than are necessary for guarding our capital, and for assisting the civil magistrate in putting the laws in execution against smugglers and other criminals; for both which purposes 12,000 may, I believe, be found fully sufficient.

I know, Sir, it may be said, that as long as his Majesty possesses the affections of the generality of the people, which I hope he always will, we may trust to our militia, for defending us against any small and sudden invasion, and likewise for defending us against any insurrection, as well as for enabling the civil magistrate to put the laws in execution against all sorts of criminals. For my part, I can freely declare, that I wish, as much as any man can do, that we could put so much trust in our militia, as to have no occasion for regular troops; and with regard to defending us against foreign invasions, I believe we might put our trust in our militia, if our foreign neighbours had nothing but militia to bring against us; for our men are naturally brave as any of their neighbours; they always shewed themselves so, when neither of us had any thing else but militia to trust to. But now, that our neighbours have large bodies of regular well-disciplined troops, it would be madness in us to put our whole trust in our militia; for by experience, in all countries, we find it is impossible to make militia any thing near equal to regular troops. We have an instance, Sir, of this in the late war betwixt Poland and Muscovy. In Poland the militia were formerly, and I believe are still, as good a militia as any in the world. Whilst the Muscovites brought nothing but militia against them, we find the Polish troops were always much superior to the Muscovites, so much, that in former times, we find a small body of the former have put to rout great armies of the latter; but the Muscovites have now fallen into the way of keeping up a great army of regular well-disciplined troops, and late experience has shewn us how much inferior the Polish militia is to the Muscovite regular troops; for in the late war which happened upon the election of this present king of Poland, the Polish militia could never once make any tolerable stand against those regular troops, that were sent from Muscovy to support the present king of Poland's election. In all the other countries of Europe we find it is the same; and in this country, I am convinced, we should find it to our cost, if we had nothing but militia to send against any body of regular troops, that might chance, by escaping our fleet at sea, to land in this island; for which reason, as long as our neighbours keep up such large bodies of regular troops, I shall always be against trusting intirely to our militia, for our defence against foreign invasions.

Even as to defending us against insurrections, and enabling the civil magistrate to execute the laws against criminals, I do

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not know, Sir, if it would be proper to trust to our militia. During the late rebellion we saw how unserviceable, how backward they were. I hope it will not be pretended that that insurrection was general, or that it was favoured by any great part of the people; and yet that small number of men, which were gathered together from one corner of the island only, would, I am afraid, have made themselves masters of the whole, if we had then had nothing but militia to send against them. Then as to enabling the civil magistrate to execute the laws against criminals, I am sure there never was a time when there was less reason than there is at present, to say our militia is sufficient for this purpose. In most of our maritime counties, I do not know but that the militia would protect instead of suppressing the smugglers; in some counties the militia would, I fear, destroy the turnpikes, instead of assisting to apprehend those, who do in a riotous manner destroy them; and in every county, I am convinced, the militia would protect the illegal retailers of spirituous liquors, instead of protecting those who serve the public by informing against them.

From these considerations, Sir, I am convinced, a standing army is absolutely necessary, at least at present, for protecting us against foreign invasions, and domestic insurrections, and for enabling the civil magistrate to execute those laws, which have been thought highly necessary by all the branches of our legislature; and for these ends I cannot think, that a less numerous standing army than we now have, could be sufficient; at least I cannot think so, as long as we have so formidable a disaffected party amongst us. A standing army, or such an one as we have at present, may perhaps be an evil; I shall even grant it is an evil, because it must always be expensive to the people; but it is an evil which we ought to submit to, for the sake of avoiding a greater: And as I am of opinion, and have, I think, clearly shewn, that a standing army, constituted as our present is, and not more numerous, cannot be in the least dangerous to our constitution or liberties; therefore I must think, we ought the more willingly to submit to it.

Mr. *George Lyttelton* spoke in substance thus*:

Sir; by what I can collect from the long debate we have had upon this question, I find the three chief arguments made use of against the reduction proposed are, the fears we are under from the Pretender, the discontents that are among our people, and the care we ought to take of preserving that weight and influence, which this nation ought to have in all foreign negotiations. These, Sir, are the reasons, and these only are given as the reasons, for keeping up the same number of mercenary troops but for this ensuing year, which I must think is a little surprizing; for if there be any weight in any of these reasons, I think it may be easily shewn, that they will always be as good as they are at present; and therefore, if any one of them be an argument for keeping up the same number of mercenary troops but for one year longer, it must be an argument for keeping up the same number for ever. Nay, I believe every one of them will gather new weight every succeeding year, and however imaginary they may be at present, I am afraid they will at last become real, and may become good reasons, not only for keeping up the same number we have at present, but for keeping up a much greater number: I am even convinced they will at last become good reasons for introducing and keeping up a large body of foreign mercenary troops; for if our people should become generally disaffected, as well as discontented, our government could not rely upon an army raised and recruited from a people generally disaffected: the soldiers, at least, of such an army, would be apt to embrace the first opportunity for following their natural inclinations.

As to the discontents that are said to be at present so general among our people, I must with sorrow confess that I think they are but too general; but I think their causes are far from being such as have been assigned. An hon. gentleman has indeed given us a very ingenious description of what he takes to be the causes of our present discontents; but these causes, Sir, are such as must for ever subsist, and must for ever produce the same effects; so that if there are no discontents in the nation, but what proceed from one or other of these causes, we can never expect to see an end or a diminution of our discontents, and consequently we can never expect to see an end or a diminution of our standing army. The first two, I mean the discontents of those, who are so un-

* From the London Magazine.

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reasonable as to expect safety and security, without their being at any trouble or expence for that purpose, and the discontents of those who are so fond of changes, as to risk their own destruction rather than not to have one, must both be perpetual; for if there are any such men in the kingdom as either of these, there is no reason to expect they will ever be fewer: Nay, as these causes are such as proceed from the nature of mankind, they are such as must not only for ever subsist, but must in every nation subsist; and consequently, the discontents proceeding from these, must be a reason for keeping a numerous standing army on foot, not only at all times, but in all nations. From hence I may say, that some of our neighbours, as well as we, are much obliged to the hon. gentleman, for furnishing them with a pretence for keeping up great armies, which I am persuaded none of them ever thought of before. But every man who knows any thing of the nature of mankind, must be convinced that there cannot be in this nation, nor in any other, a great number of such men; and therefore no government can stand in need of a numerous mercenary army, for keeping such men in obedience.

Another cause, Sir, which the hon. gentleman has been pleased to assign for our discontents, is likewise a cause which must for ever, and every where, subsist, because it depends upon the nature of mankind; and it must in every free country produce the same effects it does in this. In every free country the people have a right to make their own laws, and to enquire into the administration of their public affairs; therefore they have a right to know what may be said for or against either. In such countries, the most wise and just administration, the most prudent and necessary laws or public measures, may be traduced and misrepresented by some men, for selfish ends; but in every such dispute, the government has, from the very nature of all governments, a great advantage: those who speak or write against the measures of the government, even supposing those measures to be oppressive and unjust, or absurd and ridiculous, are always under a great restraint; they are always in danger of exceeding those bounds that are prescribed by the laws of their country, and have often suffered severely on that account: On the other hand, those who speak or write in support of such measures, are never under any such restraint, and are always richly rewarded; which is an encouragement their antagonists can seldom expect, and much seldomer meet with. For this reason it is impossible to suppose, that by any sort of enquiry, by any sort of writing or speaking, any general discontent can be raised against a just and wise administration: On the contrary, the more their measures are canvassed, the more general satisfaction they must give; for truth always appears brighter, the more it is exposed to the light.

The next cause of discontent, which the hon. gentleman has been pleased to call downright disaffection, is, it is true, something peculiar to this nation; but this cause must likewise for ever subsist, because, I believe, we shall always have a Popish Pretender without, and some few Papists within the kingdom: Nay, I know not but that we may always have some Protestants possessed with the notions of passive obedience and non-resistance, however ridiculous they may appear to those who can reason coolly upon the subject; but I am sure the number of this sort of Protestants, is not considerable at present, nor is the number of Papists so considerable as to afford any colour for saying, that downright disaffection is one of the principal causes of those discontents, which are at present so general among our people.

Thus, Sir, I have shewn, I think, that all the causes of discontent, that have been assigned by those who argue in favour of a standing army, are such as must for ever subsist, and such as must always have the same effect they have at present; so that if there are now no discontents among us, but such as proceed from one or other of these causes, our discontents, as I have said, must always be as general as they are at present, and consequently we must always have the same reason for keeping up the same number of mercenary troops: But I am of opinion, that most of our present discontents proceed from very different causes, and that the keeping up of such a numerous standing army within the kingdom, in time of peace, is one of the chief, though not the only cause, of most of our present discontents. The hon. gentleman has told us, that none of our discontents can be owing to reason, because there is no country in the world where the liberties and properties of the subject are more sacredly preserved, nor are there any subjects who pay less for

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the ease and security they enjoy, than the subjects of this kingdom. This may, perhaps, be his opinion; but even he himself must acknowledge there are multitudes of men in the kingdom, who think otherwise; men who are neither Jacobites, nor fond of changes, nor such as would grudge to pay their proportionable share towards every necessary public expence. Can any man think his property sacredly preserved, when he is obliged to pay heavy taxes for supporting a public expence, for which he thinks there is not the least occasion? This is the case of most men in the nation: I believe nine parts in ten of our people think a standing army of 12,000 men, more than we have occasion for in time of peace; therefore nine parts in ten of our people must think the keeping up of the supernumerary 6,000, a public expence for which there is not the least occasion, and consequently, nine parts in ten of our people must think their property is not so sacredly preserved as it ought to be. Can any man think either his liberty or property secure, who thinks that both depend upon the moderation of a court, and the honour of a mercenary army? This I think has been clearly shewn, in the course of this debate, to be our case at present, and that it must always be our case as long as we keep such a numerous mercenary army within the kingdom; and no man who thinks so, which is, I believe, the case of most thinking men in the kingdom, can think either his liberty or property so secure as it ought to be.

The liberties and properties of the subject may be as secure and as sacredly preserved in this, as in any neighbouring country; but this, Sir, is not sufficient. If our neighbours are all slaves, are we to be pleased with being less slaves, or happier slaves, than they? No, Sir: nothing can please our people, nor ought they to be pleased with any thing less than having their liberties and properties as secure and as sacredly preserved, as they ought to be by the nature of our constitution; and this they never can, as long as we unnecessarily keep up a numerous standing army in time of peace. It is not therefore a comparative, it is a real security our people expect; and every one must be discontented, who thinks he does not enjoy that security. This, I say, Sir, is one of the chief causes of our present discontents; and as it has been admitted on all sides, that discontent may at last deviate into disaffection, those who are really afraid of the Pretender, and have nothing else to fear, ought, and certainly will, be for removing this cause of discontent as soon as possible.

It may, as I have said, Sir, be true, that in this country the liberties and properties of the subject are as sacredly preserved as in any other; but I am surprised to hear it said, that there are no subjects who pay less for the ease and security they enjoy, than the subjects of this kingdom; for I will venture to affirm, and, if it were necessary, I could from calculation and comparison make it appear, that the taxes paid by the people of this kingdom yearly, amount to a greater sum, in proportion to their numbers, than is paid yearly by any people, I believe, under the sun; therefore, if there be any public expence incurred, that is not absolutely necessary, or if any man has of late years with impunity involved the nation in expences, which were not necessary, whoever thinks so, must have reason to be discontented, without imputing his discontent to any of the causes the hon. gentleman has been pleased to assign; and I am afraid there are but too many who think so; but whether they have just ground to think so, I shall not take upon me to determine. If they have not, surely some proper methods may be found, to persuade them they are in the wrong; for to pretend to convince them by a standing army, I must look on to be the same with that method of arguing, which Popish inquisitions make use of for the conversion of heretics and infidels; or, as a facetious author of our own has expressed it,

> 'Such as do build their faith upon
> 'The holy text of pike and gun.'

I come now, Sir, to the third reason that has been insisted on for our keeping up the same number of regular troops, which is, That it is necessary for preserving the weight and influence this nation ought to have in all foreign negociations. This likewise is brought as a reason for keeping up the same number of forces, only for this ensuing year; but does not every one see, that this must be as strong a reason with next session, and with every succeeding session of parliament, as it can be with the present? If the weight and influence we now have in foreign negociations depend upon the number of mercenary troops we keep in our pay, what reason can be assigned for its not depending a year hence, or two years hence, upon

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the same cause, as much as it can be supposed to do at present? This reason, therefore, like the two former, must be a perpetual reason for keeping up the same number of mercenary troops; for I fancy it will not be supposed there can ever happen a time, when we shall have no occasion for having any influence in foreign negociations; but this, Sir, can be no reason for keeping up a numerous standing army in time of peace, either in the present or any future time; for I am certain, the weight and influence of this nation in foreign negociations of all kinds, and in all countries, must depend upon the wisdom of our councils, and the unity and confidence that subsists between our King and people. Our neighbours are fully sensible of the power of this nation, and will always have a due regard for that power, when they think it is united, and prudently directed. This we may be convinced of from every part of our history, and this is one of the strongest arguments with me for reducing our army; for by keeping up a numerous standing army in time of peace, we shall always convince foreigners, that there are discords and animosities between our King and people, or that there is great folly in our councils; because, if there are no discords or animosities between our King and people, considering the situation of our country, and the superiority of our fleet, we can have no occasion for keeping up a numerous land army in time of peace; therefore no wise administration will put their people to such an unnecessary expence; and no foreigner will have any great regard for our power, if it were much greater than it is, as long as they are convinced that our power is disunited, or that it is under the direction of weak and ridiculous councils.

This, Sir, I am afraid is an effect which we feel at present. We have for so many years kept up a numerous standing army in time of peace, that foreigners, I am afraid, begin to think the power of this nation is disunited, or not prudently directed; and therefore have not shewed us so much regard, in some late negociations, as they ought to have done. I am convinced they will find themselves mistaken, if they should at last by their conduct oblige us to make use of our power, in order to convince them of their error; for this is one of those few errors which can be removed only by force of arms; but a numerous land army can never be the most proper sort of force for this nation to make use of, even for such a purpose; and much less can it be proper or necessary for us to provide any such army, till we have occasion for them. Our neighbours all know we can have such armies whenever we have a mind, because we have money to pay for them; and if we cannot march them by land, they know we have an irresistible fleet, which can convey them wherever we please to direct our vengeance.

With respect to Spain, Sir, I am sorry to say it must be confessed, that we have negociated in vain, and they have plundered with success for too many years; but what can this be owing to? Can it be thought they are ignorant of the power of Great Britain, or that they would dare to stir it up to vengeance, if they thought it were united, and wisely conducted: No, Sir, this is not to be presumed: They are certainly of opinion, that there are discords and animosities subsisting between his Majesty and his people; and this mistake of theirs can be owing to nothing but to our having kept up in this island, for so many years, such a numerous standing army; therefore, if we expect to obtain redress from them by negociation, the most probable way of succeeding would be, to make an immediate reduction of our army. But suppose we can expect no such thing; suppose we are now fully convinced, that the only way of obtaining reparation must be by force of arms, what reason can we have for keeping up a numerous land army for that purpose? No man will pretend, that in case of a war with Spain, we can or ought to invade that kingdom with such a land force, as may be superior to any army they can send against it: All we have occasion for, is to send a superior fleet, with some land forces on board, to infest their coasts, till we have brought them to reasonable terms; and for this purpose we could spare troops enough from Britain and Ireland, even though the present reduction should be agreed to; or if we could not spare enough of our own, what should hinder us from hiring as many from some of our neighbours, as we can have occasion for upon any such occasion?

For this reason, Sir, I little expected that the present situation we are in with respect to Spain, should have been mentioned as a reason for land forces; but I am surprised they should mention it for this purpose, after they had forgot to make the least mention of it, when they were racking their invention to find reasons for

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the general discontent that reigns at present among our people; for can it be questioned but that the depredations and barbarities committed by the Spaniards with impunity, for so many years, against our merchants and seamen, occasion great discontents and great heart-burnings among our people? Every man who has been plundered, insulted, or cruelly used by the Spaniards, and who has complained in vain to those who are in duty bound to give ear to his complaints, must be dissatisfied; and all those who have heard their melancholy tale, must be dissatisfied, if they have any regard for the honour, the trade, or the happiness of their native country, which must all be greatly affected by suffering such indignities to pass unpunished. I hope we have always been, I hope we still are, in a condition to take proper vengeance, whenever we find that no sort of peaceable measures can procure us reparation or security; but if we are not, I suspect there must be some fault in our late conduct; and if there is, it ought to be inquired into in a proper way, and punished in a severe manner: It would give some satisfaction to the sufferers and to the people, to see justice done upon those (if there be any such) who, by their ill conduct, have brought the nation into such a forlorn and helpless condition.

This, Sir, leads me naturally to consider a supposition that has been made, and an argument for a numerous standing army that has been drawn from it, by an hon. gentleman in this debate, with both of which I am not a little surprized. It has been supposed, that the discontents of our people proceed from notorious oppressions or malversations in our administration, and from thence it has been argued, that our army ought not to be reduced till the authors of such oppressions and malversations have been tried and punished in a proper and legal method. With respect to any of our present discontents, or our present administration, I am sure no such supposition can be made; but allow me, Sir, to make such a supposition with respect to some future administration. Suppose then, that in some future age, an administration, or a set of ministers, or, if you please, one prime and sole minister, should for several years, under the shadow and protection of a standing army, carry on oppressive and ridiculous measures; would not these ministers, or that minister, during that whole time, endeavour to put the army entirely under the command of his creatures and dependants? And would not he, at the same time, endeavour to bring as many of those creatures and dependants into parliament as possible? By this latter method he might, perhaps, be able to prevent any enquiry or prosecution's being brought into parliament against him; and in case, by the virtue, or the resentment of the people, he should fail in this method of protecting himself, he might then probably, by means of the former method, be able to treat the parliament as Oliver Cromwell treated the parliament in his time. Now, I would be glad to know, what gentleman would be such a fool as to move for any sort of prosecution in parliament against a minister, who, he knew, had a majority in that very parliament, that would justify him at any rate: or what parliament would be such fools as to begin a prosecution against a minister, that had an army at his beck sufficient for turning them out of doors.

In every such case, Sir, a reduction of the army must be the first step, that could possibly with any prudence be taken; for if the friends of the people should find themselves disappointed in that step, it would be ridiculous, it would be madness in them, to expect success in any legal method they could take, for bringing the authors of such oppressions or malversations to justice.

But if they should succeed in this, they might from thence conceive some hopes; and the people would look upon it as a preparatory step for relieving them from all their grievances; They would then begin to put a trust and confidence in their parliament, and would wait with patience for that relief, which they saw their parliament was about to give them; for there is no example in our histories, of our people's ever endeavouring to take vengeance, or to do themselves justice, in a riotous and tumultuous manner, as long as they have any hopes of obtaining it in a legal or parliamentary method. Therefore, if ever this nation should happen to fall into such unfortunate circumstances, as have been supposed, a reduction of the army would be the most proper method the parliament could take, for preventing mobs, tumults, or insurrections among the people; and it would be the only method, by which the parliament, or at least the people's friends in parliament, could hope for success in their generous design of relieving their country.

Thus, Sir, I think I have shewn, that

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none of the arguments made use of for our keeping up the same number of forces for this ensuing year, are such as can be of any weight, and that if they were now of any weight, they are such as not only must have always the same weight, but must every year acquire an additional weight: therefore, with Mr. Trenchard, who has been already mentioned in this debate, I must conclude, that those who make use of such arguments, for keeping up such an army for one year only, are really in their hearts for keeping up such an army *in secula seculorum;* and to make us swallow this bitter pill the more glibly, we are told, why would you make a reduction in your army? The few additional troops you propose to reduce, cost the nation but a mere trifle yearly: you will save but 216,000*l.* a year by the reduction proposed; which can make no extraordinary figure in the public accounts of this nation. What figure such a saving may make in that gentleman's eyes, I do not know, Sir; but a saving of 216,000*l.* will, I am sure, make a very considerable figure in the eyes of every gentleman, who is not accustomed to deal in millions. Even this saving alone for 20 years past, would have paid off above six millions of public debt; for an annuity of 216,000*l.* at 4 per cent. compound interest, amounts in 20 years to near 6,500,000*l.* and notwithstanding the great debt we owe, I must think that a payment of 6,500,000*l.* would make no inconsiderable figure, when compared with the sum total of our public debts. But this is not all: for if we had reduced our army 20 years since to 12,000 men, we might long before now have reduced them to a much less number; for the nature of a standing army is such, that the more you reduce it, the more you may, and the more you increase it, the greater reason will you always have to increase it.

Every one knows, Sir, how our parliamentary armies have increased, since the year 1697, which was the first time such a thing was introduced by consent of parliament. It was then asked but for one year, but the nation has never since been able to get rid of it, and it has vastly increased since that time. I doubt much if it is yet come to its full growth; for I do not know but that 20 years hence, or under some future administration, I may see a standing army of 30,000 thought as necessary, and agreed to by parliament as unanimously, as an army of 18,000 is now. Even this very year, though no addition has been made to our troops here in Britain, yet an addition of one regiment is, I hear, to be made, or has already been made, to our troops in the plantations. I do not say, Sir, but that it was necessary to send some additional troops to that country. I wish most of the troops we now have in Great Britain were always kept there. In that country they might sometimes be useful, and could never be dangerous to their native country; and the honourable gentleman, who is to have the command of the troops to be sent thither, will, I am sure, make the best use of them upon any occasion that shall offer; but I think there was no necessity for raising a new regiment for that purpose; I think one of the regiments we have at home might have been sent thither; I am sure we could have spared half a dozen. This new regiment is a new addition to the annual charge of the nation, I reckon, of near 10,000*l.* if not more, as will appear by comparing the estimate of the charge of his Majesty's forces in the plantations, Minorca, and Gibraltar, for this next ensuing year, with the sum granted by parliament for the same purpose last year: I say, upon comparing these two sums together, it will be found that the former exceeds the latter by at least 10,000*l.* And considering the great debt we owe, and the many heavy taxes our people are obliged to pay, I think nothing but the most absolute necessity should induce us to load the nation with the most trifling addition to its present annual charge.

I shall conclude, Sir, with observing, that even the hon. gentlemen who have spoken against the question now under our consideration, have furnished us with a most powerful argument in its favour. They have told us, that a standing army can never contribute towards the overthrow of our constitution without its being properly garbled for that purpose. I do not know what these gentlemen call garbling, but when I see gentlemen of the army turned out of their commissions, or threatened to be turned out, without a pretence of their having been guilty of any military crime; when I see others advanced and preferred out of their turn, to the prejudice of those whose turn it was to have that preferment, without so much as a pretence of any superior military virtue in the former; I say, Sir, when I see such things done, and frequently done, I must call it garbling the army: for when a man is punished for a vice, or rewarded for a vir-

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tue, which he that is the cause of inflicting the punishment, or bestowing the reward, dares not, or is ashamed to own, I shall always suspect that the natural course of things is inverted, that the vicious only can expect to be rewarded, and that the virtuous are sure of being discouraged, if not punished, as soon as their virtuous disposition begins to appear. Julius Cæsar had as great reason as any man can ever have, to discourage virtue and reward the vicious: Julius Cæsar did sometimes threaten men for doing their duty; but Julius Cæsar was always extremely shy of putting such threats in execution. We are told, that when he went to seize upon the sacred treasure of Rome, and was opposed by Metellus, the tribune, he threatened to kill Metellus, and at the same time told him, 'Istud nonne scis adolescentule, longe 'mihi difficilius dicere, quam facere.' This was threatening a man for doing his duty, but Julius Cæsar took care not to put that threat in execution. In this age, and in this country, we have heard of men's having been threatened for doing their duty: we have not only heard of such threats being made, but we have some reason to suspect they have sometimes been put in execution; for when an officer of the army is turned out of his commission without any public accusation, whatever accusation may have been privately brought against him, we have reason to suppose the accusation false, and that the true cause of such an accusation's being brought against him was, his having done his duty, or his having refused to do what he thought was inconsistent with his honour. If such practices have been lately introduced, I must think that those who have introduced them, have begun to garble the army; and therefore, even according to the opinion of those gentlemen who have argued against this question, it is now high time for the parliament to think of reducing the army; for if the first session of parliament after such practices have been introduced, should pass them over without notice, it may probably be put out of the next, or any future session, to take the least notice of them, or to prevent the fatal effects of them by a reduction.

Mr. *Henry Fox* spoke to the following effect:*

'Sir; The small experience I have of debates of this nature, makes me a very unequal match for the gentleman who spoke last; but I am persuaded, that he himself does not think, that the arguments, they were pleased to advance for the proposed reduction, require any great share of parts or reason to confute them. One gentleman was pleased to make an encomium upon the Tories, which I believe his own new allies of the Whig party will not thank him for. And, Sir, I think as these last glory in still acting upon Whig principles, it naturally belongs to them to answer that part of the hon. gentleman's speech. I shall only beg leave to say, that the hon. gentleman was in the right when he affirmed, that the Tories, in the Parliament, always opposed the keeping up a standing army by the consent of parliament, because, Sir, their principles lead them to be for a standing army, without the consent of parliament: Their interest, Sir, can only be established by such a standing army, and that, I hope, no parliament of England will ever countenance. When the design of introducing arbitrary power was set on foot, those in the secret proposed that it should be brought about by a standing army; But upon what establishment was that army to be? Not upon the establishment upon which our army is. It was not continued from year to year by consent of parliament, but paid by the King out of the exorbitant revenues, which had been granted him by the Tories, whose patriotism the hon. gentleman has so much extolled. From such an army, Sir, it might have been thought that we had every thing to fear, and yet when these bad designs came to break out, we saw that very army abandon its master, and go over to the side of liberty. If such was the conduct of an army modelled by a prince who had formed bad designs, can we ever imagine that an army, maintained by this parliament, will join with the designs which a King or minister may have upon the liberties of the subject? I believe, Sir, if we were to search into particulars, and if a scrutiny into the circumstances of the gentlemen of the army was demanded, it would be found that most of the officers, both general and subaltern, have too much interest of their own at stake, ever to consent, that the property of the subject should lie at the mercy of a King or minister. It is but an inconsiderable advantage that these gentlemen enjoy, merely as officers, when compared with what most of them are entitled to an-

* This speech is omitted in Chandler. See the Preface to the present Volume.

subjects, and which must be involved in the general wreck, if our constitution were to be overthrown. The hon. gentleman seems to be apprehensive that the same catastrophe may happen by means of our army, as happened by means of the parliament's army under Charles the 1st, when our constitution was overturned, and monarchical government abolished. But, Sir, give me leave to say, that any such fears at this time of day are absolutely chimerical. The army raised by the parliament at that time, was raised when they were in actual war with their prince: for which reason they were obliged to employ many officers who had no other qualifications to recommend them but their abilities to serve in a military capacity, and consequently had no immediate interest in the preservation of our civil rights. Such gentlemen amongst them who had fortunes of their own, did, for the most part, either voluntarily leave the party, or were cashiered by Cromwell and others, who were in the secret of the design to subvert the constitution. But, Sir, I believe the greatest stickler against an army in England will not pretend to say that our army is composed of men of that character, or that the gentlemen in the administration ever discovered the most distant intention to garble the army in such manner. If an administration were mad enough to make any such attempt, no doubt, the gentlemen thus cashiered would be the first to alarm the nation, and put us upon our guard. So that in the gentlemen of our army we have, Sir, a double security; first, as they are men of unquestionable attachment to the present establishment; and secondly, as they are men of fortune and family.

The hon. gentleman was also pleased to advance a very extraordinary proposition, That our keeping up an army is utterly inconsistent with the principles that brought about the Revolution, and upon which our Claim of Right is founded: If the hon. gentleman will be pleased to look into the Bill of Right, he will find 'that the raising or keeping up a standing army in time of peace is indeed against law.' But, Sir, it is plain, that the army here meant, is an army raised and continued, not by parliamentary, but royal authority: such as was maintained by the late King James for promoting his own arbitrary views. Such, Sir, is an army, indeed, which we have reason to be afraid of; and that this is the army meant in our Bill of Right, is plain by the subsequent words, in that very clause, 'unless it be by the consent of the parliament.' These words, Sir, plainly prove, that an army raised with consent of parliament is not against the principles of the Revolution, but what every gentleman who acts upon these principles may consistently vote for. It is true, that after the Revolution, there were many gentlemen in parliament, who had been zealous promoters of that glorious event, who opposed an army kept on foot by consent of parliament, as indeed they did every other measure of the court in those days. But, Sir, it never can be fairly inferred from this, that their conduct was the rule of acting that all the Whigs in those days laid down. No, Sir, there were disobliged Whigs at that time as well as now, a few perhaps upon mistaken principles, others from motives not so easily to be justified. But the greatest number of those who were then in the opposition, I am afraid, were, at the bottom, republicans; who equally hated the king and his government; and whose only motives for joining the Revolution were, that a door might be shut against all monarchical government for the future. If the Whigs of those days were not for an army by consent of parliament, I should be glad to know of the hon. gentleman, by what means the vote for establishing an army passed this House? It never could pass by means of the jacobites, because the keeping up of an army was the most proper, and the only way, to blast their hopes. The Tories would never vote for it, because, according to the hon. gentleman, they have always acted consistently with Revolution principles, which, in his opinion, are absolutely against any army in time of peace. For the same reason, if the hon. gentleman's maxim be just, all true Whigs would oppose it. Now, Sir, I cannot, either from conversation or reading, learn of any other denomination of parties that subsisted in those days, yet there is no doubt but party quarrels ran as high then as ever they have done since: Therefore, Sir, it is reasonable to conclude, that the generality of our Whig ancestors were persuaded of the necessity and the lawfulness of a standing army in time of peace, because it is impossible for us to find out any other set of men subsisting in those days, whose numbers could carry or whose principles led them to vote for such a measure.

The hon. gentleman who spoke last,

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made some very just observations upon government in general, and upon our constitution in particular; I shall only beg leave to add to his observations, that there is now no country in the world, nor I believe was there ever any people, who were so scrupulously attached to their original forms of government, as not to dispense with them when a too strict adherence to those forms might endanger their liberties. The Romans formerly, Sir, while in a republican state, averse as both their genius and constitution were to monarchical government, had recourse to a dictator whenever their country was in danger. We have known the Dutch, who are as zealously attached to their forms of government as any people ever were, give up some of the essentials of their government when they were to resolve on measures that sense and reason dictated for their common safety. For, the first law, Sir, is the safety of the people. This is a law that takes place of all other considerations, and every good constitution is presumed to be founded upon this law. Therefore, Sir, it is not enough for gentlemen to tell us, that our keeping up a standing army in time of peace is against our constitution; because to me it is evidently agreeable to the first maxim of all constitutions, which is the safety of the people. If gentlemen could prove, to my satisfaction, that the safety of the people is not endangered by our adherence to a point of our constitution, I should be as scrupulous in giving my vote on this motion, as any gentleman in this House. But when I hear gentlemen reason from facts, the parallel of which may probably never happen again; when I hear them argue from opinions, whose authors might either be mistaken, or influenced by circumstances widely different from those we are now in; when I hear them apply events which have proceeded from causes that can never enter into our present case; I say, when I hear all this, I ask myself one short question, and that is, Whether such or such a measure is necessary for the safety of the people, as we are now situated? This, Sir, I think, is the hinge upon which this debate ought to turn: and every argument that gentlemen shall advance, if it does not immediately tend to resolve this question, give me leave to say it, is wide of the mark. Our ancestors, Sir, who planned and perfected our constitution, laid down such rules as were most agreeable to the situation of their affairs, to the genius of the people, and to the nature of the government then existing. But, Sir, it cannot be supposed they were to foresee that their nearest neighbours, who were then too much divided, and too weak to give them any apprehensions, would in future times be united under powerful and ambitious princes, who should improve them both in military and civil arts, and by keeping large bodies of standing forces, threaten the liberties of England and of Europe. They could not foresee that a time would come when the common people would run into a general depravity, and when their betters were to be divided amongst themselves, so as that one party would pursue the most dangerous measures, provided they could distress the other. Our ancestors, Sir, could not foresee that a disputed title to the Crown of England would one day oblige its lawful possessor to make use of arms for quelling a rebellion raised in favour of his competitor, and that the legislature was to be under a necessity of continuing an army on foot, in order to prevent rebellions at home, or invasions from abroad on the same account. None of these considerations, Sir, could enter into the heads of our forefathers who lived many ages ago, and therefore it is unreasonable to suppose that they could expressly guard against them; otherwise, I make no doubt we should have had a standing army one of the essential ingredients of our constitution. I have been obliged, Sir, to insist a little longer on this argument, because I think it has not so much entered into debates on this subject as it deserved; and because I am persuaded, if it met with due attention, it would prevent gentlemen from throwing out a great many reflections, and saying a great many things that are personal and unparliamentary.

The hon. gentleman who spoke last, and whom I always hear with much pleasure, told us a great deal about the ill consequences which the disposal of posts in the army might occasion by affecting the independency of this House. But, Sir, what he said about posts in the army, may be applied with as much justice to posts either in the law or the church. That it is necessary to have these posts filled, and that it would be unreasonable to deprive a man of his seat in this House, because he is a bishop, or one of the crown lawyers, has, I think, never yet been disputed. Therefore, if I understood the hon. gentleman aright, his meaning was not, that

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it is a defect in our constitution, that those who enjoy these posts should have a share in the legislature; but that the defect lay in its being in the Crown's power to fill up these posts. But, Sir, they must be filled up by some authority or other, and I should be glad if the hon. gentleman had given us his thoughts on that head: I believe he would be puzzled to assign the disposal of them to any set of men, whose principles and conduct have proved them disinterested enough to supply them with better men than the Crown does. For my own part, Sir, I am so far from believing that a place-man may, by sitting in this House, endanger our constitution, that I think every one of us (for I own myself to be a place-man) ought to unite in opposing every measure that can endanger the constitution, because we can enjoy our places no longer than the constitution lasts; and on this account it is, Sir, that I am against the proposed reduction, and I hope all place-men will oppose it likewise.

The hon. gentleman made some observations upon the antient state of the Romans, and the present state of the French, which were extremely just; but, Sir, I cannot apprehend what these observations have to do in the present debate, unless he had first proved that we were in danger of falling under the yoke of a crafty tyrant, or an ambitious minister. But the people of England have always been watchful enough of their safety to take the first alarm upon the least suspicion of any such design; nor could the Roman arms, Sir, ever have subdued Rome, had not those virtues that raised her above the nations, been first subdued by that flood of corruption introduced after her conquests over her most formidable rivals in empire. The plunder of the conquered provinces, by enriching numbers of private persons, who were unqualified for filling the posts in the government they so much coveted, gave them the means of bribing the electors, and, under the mask of patriotism, of breaking down those fences of their constitution that had been raised by the wisdom of their ancestors. After by their own practices they had destroyed the very ideas of private virtue, they declaimed violently against public corruption; and when, at the expence of their fortunes and characters, they had acquired a criminal popularity, they formed cabals to overthrow the constitution of their country. But, Sir, the greatest part of that army which gave the finishing blow to the liberty of Rome was composed of foreigners, and not of natives. And, Sir, at this day, was the king of France to stretch his power to any extravagant degree of tyranny, I can venture to say that most of his officers would abandon him.

As the hon. gentleman was pleased to give us a sketch of ministerial rhetoric for a future administration, we may suppose, he himself expects to be a prime minister; whenever that time comes, he, no doubt, will add the necessary embellishments to it; but I dare say, none who shall act upon the principles of the gentlemen who have the honour to serve his present Majesty in the administration, will ever make such an inconclusive speech. Thus, Sir, I think I have answered the most material arguments in favour of the proposed reduction, which I must be against till I hear some better advanced by the gentlemen on that side.

Sir *John Hynd Cotton* spoke to this effect:

Sir; The hon. gentleman who spoke last has advanced, what I believe was never yet advanced by any one who understands the nature of our constitution so well as he does; I mean, that the keeping up a Standing Army in time of peace is agreeable to Whig principles. Sir, I know not what Whigs the hon. gentleman has been acquainted with, but I have had the honour and happiness to be intimate with many gentlemen of that denomination: I likewise, Sir, have read the writings of many authors who have espoused these principles: I have sat in this House during some of the most material debates that have happened betwixt them and the Tories; and, Sir, I can declare from my own experience, that I never knew one who acted on true Whig principles, vote for a standing army in time of peace. What the principles of the Whigs in former days were, Sir, I can only learn from reading or information; but, Sir, I have heard of Whigs who were against all unlimited votes of credit; I have heard of Whigs who looked upon open corruption as the greatest curse that could befal any nation: I have heard of Whigs who esteemed the liberty of the press to be the most valuable privilege of a free people, and triennial parliaments the greatest bulwark of their liberties; and, Sir, I have heard of a Whig administration who have resented injuries done to the trade of

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the nation, and who have revenged insults offered to the British Flag. These, Sir, are the principles, if I am rightly informed, that once characterised the true Whigs. Let gentlemen apply these characters to their present conduct, and then, laying their hands on their hearts, let them ask of themselves, If they are Whigs? The honourable gentleman who spoke last, asked, with an air of triumph, by what means a parliamentary standing army was established under king William: he is positive that it could only be by means of the Whig interest. No, Sir, it was not; it was by means of the court interest, which was supported by men, who were no longer Whigs than during the time they were out of post, and who, after they got into power, knew no other principles but those which advanced the interest of the crown, and secured their own employments. To these gentlemen it was owing, Sir, that the ridiculous distinction, without any difference, betwixt two kinds of standing armies, was broached: they told us, that an army kept up from year to year by consent of the parliament was a quite different kind of an army from one kept up without consent of the parliament. Really, Sir, for my own part, I think that one army may be as dangerous as the other, because the one has as much power as the other; and though power does not give right, yet it may command it; for whoever has a power to seize on my right, he is, in some measure, my master. So that though there may be a difference, Sir, as to the manner of their being paid, raised, or disbanded, yet there is no difference as to their power, if ever they should take it into their heads to prescribe, instead of receiving laws.

The same hon. gentleman was pleased to mention the behaviour of the army under the late king James, as an instance how safe our liberties are when they can only be destroyed by an army. But give me leave to say, Sir, that it was not the arbitrary measures of that prince which so disgusted his army, but the foolish and barefaced means which he used to introduce a religion they detested. The just balance, Sir, betwixt the prerogative of the crown and the privileges of the subject, is what soldiers never inquire into. The former may make a thousand encroachments upon the latter, before any soldier shall take notice of it: for, Sir, I believe no soldier ever yet told a prince who maintained and paid him, 'Indeed, 'Sir, you are too powerful, and too great, 'and therefore I will serve you no longer.' But religion, Sir, is a point every man makes himself a judge of; and it is safer for a prince to make the highest encroachment upon liberty, than to make the least upon religion. This, I am afraid, Sir, was the true reason why the greatest part of king James's army joined king William at the Revolution. Yet, Sir, as an excellent author of those days observes, 'Though 'the late king James had the nobility, 'gentry, bishops, people, and his own 'army, against him, and we had a very 'wise and courageous prince, nearly re-'lated to our crown, for our protector, 'yet we account this Revolution next to 'a miracle.' And I hope, Sir, things will never come to that pass with us, when nothing but a miracle can deliver us.

The hon. gentleman laid down a maxim, the truth of which I am persuaded no gentleman in this House will dispute, That the safety of the people was the first law. He thence seemed to conclude, that all the subordinate laws of the constitution must give way wherever the safety of the people is concerned. But, in my opinion, Sir, the safety of a people is best consulted by a steady adherence to that constitution, under which they become great and powerful. No error in government, Sir, is so dangerous, or can in the event prove so fatal, as a deviation from the constitution: nor can the safety of the people be consulted when that is infringed. When the Romans had recourse to a dictator, or the Dutch to a stadtholder, they did nothing that was inconsistent with their constitution; for both these people formerly lived under monarchical government, and when that government was abolished, they never precluded themselves from submitting to a temporary exercise of a species of that government, whenever their common safety, or the exigencies of their state, rendered it indispensably necessary. But, Sir, the Roman history affords us many instances of their senate's unanimously rejecting the most advantageous offers, even when their state was at the brink of ruin, because they could not be accepted without violating their constitution. That wise people was fully sensible, that under whatever disadvantages they might lie in the mean time, they would be fully repaired by a rigid adherence to those principles that formed the basis of their government, and which, by making them

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virtuous, had made them powerful. I agree with the hon. gentleman, that the subversion of their liberties was owing to the degeneracy of their morals: but, Sir, the first effects of that degeneracy broke out in the open attempts which their governors made to alter their constitution; and one alteration brought on another, till the whole was dissolved. So that, though the 'safety of the people is the first law,' yet, that safety never can be promoted, if the measures pursued for promoting it are in the least inconsistent with the constitution of the country.

I have heard it said, Sir, that the liberties of this nation can never be destroyed by so inconsiderable a number of forces as 18,000. But, Sir, I must beg leave to be of a different opinion. We have a late instance, when in this metropolis the populace was over-awed by less than the sixth part of that number, so as quietly to submit to a law of as unpopular a nature as ever passed in this House; I mean the law relating to spirituous liquors. Now, Sir, though I allow that this was a good law, and that the government was in the right to enforce the execution of it; yet an arbitrary law might have been forced upon the people with as much ease, if backed with the same number of forces. And, Sir, if so small a number were sufficient to over-awe the people at so disagreeable a juncture as that was, what may not the whole body of our army be able to effect, when united under the direction of a general, either devoted to the will of a court, or following the dictates of his own ambition? Besides, Sir, though we should suppose, what is very improbable, that 18,000 men are not sufficient to give laws to the rest of the nation, yet the court can command a considerable reinforcement out of Ireland. That kingdom, Sir, always maintains 12,000 men, though 4,000 are sufficient for all the purposes they are kept up for there. Now, Sir, the supernumerary body of 8,000, can, upon any pinch, be brought over hither, and added to the 18,000 now on foot. Thus, Sir, the court can at any time form a body of 26,000 men, while a total disuse of military exercise has rendered our people utterly incapable to make the least opposition in case these 26,000 men were employed by the court to wicked purposes. This, Sir, must present but a very melancholy prospect to every lover of his country, were he not persuaded of his Majesty's regard for the laws, and his tenderness for the rights of his subjects. I wish, Sir, his ministers were as tender how they load the nation with any unnecessary expence. I say this, Sir, because I hear there is a design of adding a regiment, raised since our last sessions, to the forces in our American settlements, which regiment will cost the nation at least 15,000*l.*, including the expence of their artillery, and other incidental charges. Sir, I am not at all against our sending some additional troops to that country, and especially to Georgia; nay, considering how far the honour, if not the interest of our nation, is concerned in supporting that settlement, I think we have been too dilatory in sending some reinforcement thither. But, Sir, I am of opinion, there was no occasion to have raised a regiment for that purpose, when we have so many old ones that would have served the purpose as well. Had one of the regiments on the British establishment been sent thither; nay, had half a dozen of them, for I am sure we can spare them, been sent thither, we must have reaped two advantages; first, we should have been eased of so much expence, because we can maintain them cheaper there than we can here: in the second place, there they can answer the ends of the nation, here they can answer only those of the ministry. But, Sir, in what I have said on this head, I am far from reflecting on any measure that might have been taken by the advice of the hon. gentleman whom we may justly call the father of that colony.* I am so much persuaded of his integrity and ability, that I think we ought to be as willing to support him, as he has been generous in serving us. But I dare say the hon. gentleman himself is sensible, that the less the expence is which his endeavours for the public good shall cost his country, the greater will be his own honour.

Having thus given my reasons, Sir, why I think the proposed reduction extremely proper at this time, and why I think it extremely improper for us to load the nation with any additional expence, I shall conclude with giving my vote for the motion.

Sir *John Selwyn* spoke next to the following effect:†

* General Oglethorpe. For an account of him, see vol. 8, p. 706.—*Note.*

† Omitted in Chandler.

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Sir; I do not rise up to take notice of any thing that was said in the hon. gentleman's speech who spoke last, except of the latter part; the other parts of it, I think, if I may use the expression, were either answered before he spoke them, or they sufficiently answer themselves. But towards the close he seemed to think, that 10 or 14,000*l.* was too great an expence for us to lay out on the army to be sent to Georgia. Sir, I beg leave to inform the House, and that hon. gentleman, that this money is the best employed of any money that ever the government laid out; because, in a short time, that colony will be able to produce as much raw silk as will save the nation upwards of 300,000*l.* which is now yearly sent out of England to Italy and other countries, for that commodity; so that this expence is the best piece of frugality that we can shew. On this occasion, we have been told a great deal about our national debt, and I agree with the hon. gentleman, that it is a great misfortune for a nation to be so much in debt as we are at present; but, Sir, I think it would be still a greater misfortune, if by an ill-judged frugality we should give the enemies of our constitution an opportunity of subverting it. All the expence, Sir, that can be saved by the proposed reduction this session, does not amount to above 216,000*l.* which I do not think will much affect the public debt either way; and I should think that sum well laid out, even upon the probability of our saving by it a much greater expence which the nation must infallibly incur in case of a rebellion at home, or invasion from abroad; one or both of which may happen, were the proposed reduction to take place.

Mr. *George Heathcote* spoke thus:

Sir; I own that till now I have not approved our laying out so much money as we have done on the settlement of Georgia, because I was of opinion, that if the hands we have sent thither had been duly employed in agriculture and manufactures here, they might have been useful to their native country. But the honourable gentleman who spoke last has entirely removed my scruples; for if what he says be truth, which I am far from disputing, it is like to prove the most beneficial colony that ever was sent from Britain, both because it will save a great deal of money to the nation, and as it will produce a large revenue to the crown. For this reason, Sir, I think that the money required for maintaining that settlement, and paying the forces sent thither, may be raised without our laying any additional burthen on the people of Britain. The method I propose, Sir, for this end, is, that as the fund is so very good, and the security upon it so unquestionable, the government should borrow as much money upon it as may defray all the necessary expences attending the settlement, that now fall upon the subjects of Britain. This, Sir, I take to be a very fair and equitable proposal, and I am persuaded that the wisdom and frugality of the gentlemen who have the honour to be in the administration will induce them to consider of it.—As to the other part of my worthy friend's Speech, I own I cannot so easily digest it. The reduction that is proposed, said he, will save only 216,000*l.* to the nation. Sir, 216,000*l.* is money; and, had we, for 20 years, saved that same sum by the like reduction, upwards of six millions of the national debt had been paid off, and a great many inconveniences kept from the subjects. Besides, had this reduction taken place 20 years ago, and continued ever since, I am convinced, Sir, that the only pretence for a standing army in this nation, I mean what is advanced from the discontent of the people, had been entirely taken away, in that two of the principal causes of the discontent had been removed, the grievance from the severity of our taxes, and the aversion of the nation to so numerous a standing army in time of peace: so that it is more than probable, that by this time we should have had no occasion at all for any standing forces. However, Sir, better late than never. If we begin now to reduce them, the nation may 20 years hence feel the benefit of a total reduction. Whereas, if we keep them on foot from year to year, or instead of reducing, increase them, the nation 20 years hence may be saddled with 18,000 more, and public discontent increasing with the public debt, may run so high, as to render it imprudent for the government, though it were willing, ever to make any reduction. Wherefore, Sir, I am for beginning in time, and then for making amends, as far as we can, for any past oversights, by agreeing to the proposed reduction.

Sir *William Yonge* (Secretary at War) spoke as follows:

Sir; Ever since I had the honour to sit in this House, we have had every session a regular return of a debate on this subject.

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Sometimes I have heard very specious arguments for a reduction urged by the gentlemen in the opposition; but I always saw before next sessions too good proofs that we acted most wisely when we agreed to the keeping up the greatest number of troops; nor do I know any part of his late Majesty's conduct so justly liable to censure, as the reduction of his forces, to which he was induced by a sincere, but mistaken tenderness for his people; nor did I ever know a reduction which the nation in a little time had not reason to repent of. I own, Sir, that in some years the reasons for keeping them up were stronger than in others, but I cannot remember a year when the reasons for keeping them up were so strong as they are at present. The insolence of the people in all parts of the kingdom is risen to a height that makes it unsafe for the civil magistrate to do his duty without the assistance of the military power. In the country where I was during some part of our late recess, the miners, the labourers, and other manufacturers assembled in a riotous and tumultuous manner, to the number of near 5,000, upon no other pretence but the exportation really of some grain; which exportation did a service to the country, and never could hurt them. They proceeded to the most violent outrages, which rendered it impossible for the civil magistrate to quell them; for they were so favoured by the country in general, that it was out of his power to raise a posse strong enough for that purpose. Now, Sir, I would gladly know of any gentleman what the consequence of this tumult must have been, had the government not been able to have commanded a body of regular force strong enough to have suppressed them. The gentle arts of persuasion would never have succeeded, for they were too mad to listen to any: The sense of their duty could never have reclaimed them, for they seemed to make a merit of being quite void of that. A regular body of forces, therefore, acting by the direction of the civil magisrate, was the only proper means of reducing them. In this metropolis, Sir, not a month ago, a vigilant and an active magistrate was insulted in his own house for doing his duty, by a tumultuous mob, of the same kind, who threatened to pull his house in pieces about his ears, and as I am informed actually attempted, and probably would have effected it, had it not been for a detachment of the regular troops who were sent to protect him. These tumults, Sir, could be owing to no oppression, nor to any just ground of offence that had been given them by that magistrate. But the truth is, that the more active, the more honest, and the more vigilant a magistrate is, the more he is insulted, hated, and abused by the common people. These mobs, Sir, it is true, seldom have any other view than to gratify their immediate resentment. But who knows, Sir, but that if they come to any height, those who have more distant and more dangerous views, may herd with them, and make them the tools of their ambition or revenge? This, Sir, would very probably be the case, were it not for our regular forces; and if this were the case, we must soon see a rebellion formed, and the nation become a scene of blood and confusion. Let any gentleman who loves his country reflect upon the horrors which such an idea presents, and let him, if he can, vote for a reduction, which by weakening the hands of the government may leave a possibility of any such event. An exemption from the miseries of a civil war is cheaply purchased by the heaviest taxes. The people of Britain at present pay no heavier taxes, than the extension of their commerce, and the benefits they enjoy from the government, (which leaves them more liberty than any people under the sun enjoy) enable them to support without difficulty; and, though their taxes were still heavier, a little more industry and frugality in the meaner sort of our people would easily supply them: but, Sir, the wounds of a civil war may bleed for many ages; by ruining our trade it must render us despicable to our neighbours, and probably we must become subject to a foreign or a domestic tyranny. I believe no gentleman, whether he is a placeman or not, would forgive himself, if he did not concur in every measure that could avert such an event. Sir, if such measures are pursued, they are right measures, whether they are pursued by place-men or others: and I hope all place-men will be so true to one another, as to unite in giving their negative to the reduction on this occasion.

Sir *John Barnard* said:

Sir; It has always been my opinion, that the readiest way to bring on the miseries which the hon. gentleman, who spoke last, has so pathetically described, is to maintain a numerous Standing Army in time of peace; and that the best, if not the only method of preventing them, is,

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either considerably to reduce, or intirely to disband it. So that, Sir, the gentleman has very artfully forestalled the debate, by employing in favour of a Standing Army, one of the strongest arguments against it. I am perfectly at a loss to know why the gentlemen who are against the reduction, have let so much of our time be spent, before they began the debate on their side; for I am sure they have not yet advanced a shadow of an argument in favour of the resolution. Therefore, Sir, I either expect to hear some reasons why we should agree to this resolution, from the gentlemen who shall speak in the succeeding part of the debate, or I must be obliged to think that a Standing Army is intended to be made a part of our constitution, and that our resolving ourselves into a committee, to consider of the proper number to be kept up, is mere form. Nay, Sir, it is not impossible, but that, some years hence, we may see a bill brought into this House for that end. This, Sir, will save gentlemen a great deal of trouble, in eluding once a year a set of ill-natured perplexing objections, raised by gentlemen stubbornly and perversely attached to the good of their country, and the preservation of the constitution. But, Sir, if such a step should be taken, gentlemen both of reputation and estate will not be wanting to oppose such a subversion of our liberties, with their interest, with their fortunes, and, if their country requires it, with their swords. Since the beginning of this debate, we have had a very broad intimation of a design that leans very much that way. An hon. gentleman under the gallery told us, If you continue the liberty of the press, you ought to continue your army. Sir, I look upon the liberty of the press to be the most valuable part of the liberty of the subject; I look upon the army, as what may one day be the destruction of both; and to give no better reason for supporting a Standing Army, but that it may destroy the liberty of the press, is to say, in other words, that a resolution is now forming to put an end to the liberties of Great Britain.—The hon. gentleman who spoke last, told us, that we were under a necessity of keeping up our army, that it may enforce the laws, which the weakness of our civil magistrates cannot do. Sir, I know not what authority the hon. gentleman has, for throwing out such a reflection upon the civil magistrates in general. I have the honour to be a civil magistrate, Sir, in the greatest city in Britain, perhaps in Europe; and I dare answer for myself, and for those gentlemen whom I have had the happiness to be associated with in the civil magistracy, that we have no occasion for any assistance of the military force for putting the laws in execution. And as I have opportunities of knowing somewhat of the country of England in general, I can venture to say, that a constable at the head of his posse, by a warrant from a justice of the peace who is beloved, can do more than a colonel at the head of his regiment. I say, Sir, a justice of the peace who is beloved; for I am far from thinking that all of them are beloved; though I believe they generally are so, when it is known they are not influenced by any guidance from within these walls. Sir, it is the duty, as well as the interest of every civil magistrate, to endeavour to render himself beloved and popular in those places where he acts; and if there are any who are more hated, and consequently less obeyed by the people, it must be owing to their own ill conduct. Nay, Sir, I believe I could instance many justices of the peace, who act as such, without having a qualification. In what I have said, Sir, I am far from intending that it should be understood, as if I reflected on any particular gentleman, who has the honour to serve his Majesty in the commission of peace in Westminster. I am willing to believe the best of these gentlemen, and that they are far from making a traffic of their duty, or taking their directions from any man in power. But, Sir, if there are any such, though they may indeed want the assistance of the military power, I think it is very unsafe for us to keep up forces that may be employed to very bad purposes by such magistrates.

Mr. *Pulteney* spoke thus:

Sir; The arguments that have been advanced against the present motion are of so extraordinary a nature, and those that have been offered in favour of the resolution are so weak, that I have a better opinion of the judgments of the hon. gentlemen who have advanced them, than to believe they themselves think they could be of any weight, but in an assembly where their own party is sure of a majority. Some gentlemen seem to be under terrible apprehensions from the press, some from the people, and some seem to fear nothing but for themselves. One hon. gentleman, in particular, calls out to his brethren in place, and solemnly conjures

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them to be true to one another. 'O, all 'ye placemen, be true to one another!' Indeed, Sir, the hon. gentleman may rest very well satisfied that they will; for I cannot say that I ever knew them fail, especially when they were to gain any thing by it. I wish, Sir, that other gentlemen were as well united, that country gentlemen would be true to one another; for if they were, though perhaps we could not carry this question, yet we might hope at least not to lose it by, I had almost said, so scandalous a majority, as it is but too probable that we shall.

It is the misfortune, Sir, of this nation, under our present situation, that it is generally thought to be in the power of one man to determine the fate of every question of importance brought before this assembly. This makes many gentlemen, who wish well to their country, take every opportunity of staying at home, when they ought to give their attendance in this House. Each reasons in this manner: 'My single voice is of little or no consequence, why then should I be at the pains and expence to attend the Parliament, since it can be of no use to my country?' But this is a false and a pernicious inference. This, Sir, gives a tacit countenance to oppressive measures, and deprives a man of the satisfaction of having done at least his duty for the service of his country. Besides, Sir, gentlemen ought to reflect, that if those who act for the interest of their country were united, and gave their attendance in this House, they might still indeed continue the minority; but, Sir, such a minority as they would then form, never yet failed of soon becoming the majority. I have thought myself obliged to say thus much, because I see many gentlemen absent on this occasion, who, I know, wish well to their country, and who I know would be absent on no other account, but for the reason I have now suggested.

I have heard, Sir, during the course of this debate, great complaints of the depravity of the common people; and I am sensible the complaints are not ill-founded. But, Sir, I think the method that is proposed to reform them, instead of suppressing, will but propagate the evil. It is as impracticable, Sir, to dragoon people into morality, as into religion; nor can a standing army make a free people quiet subjects, any other way than by making them humble slaves. It has always, Sir, been the distinguishing glory of this constitution, that our kings reigned over men, and not over slaves: and that gave them the power of doing as much good as they pleased; though it tied up their hands from doing any hurt. But, Sir, our new system of politics has a quite different tendency; it tends to make slaves of subjects, to give the King an opportunity of doing harm, but deprives him of the power of doing good. For, Sir, a man who lies at the mercy of another, as to his liberty and property, is, in effect, a slave, though he who is his superior should not exercise his power tyrannically. And a prince, Sir, who, in order to maintain his authority, is obliged to burden his subjects with oppressive taxes, while they already groan under a load of debts, has it in his power to oppress his subjects, but has it not in his power to relieve them; because no act of grace, which he can exert, can be a balance for the unpopularity that must attend him. So that, Sir, it is surprising that ministers themselves are not more cautious how they give occasion for any unnecessary taxes upon the people, or how they consent to the keeping up a body of forces, which so evidently tends to weaken both their master's and their own real interests. But, say gentlemen, the depravity is so great and so general, that no remedy besides that of a superior force can be applied. Sir, a physician, who would cure a disease, applies himself first to find out its causes; and if the causes can be found out and taken away, the effect ceases of course.

As to what the gentlemen who are for continuing the present number of our forces have so much insisted on, I mean the spirit of opposition to the civil magistracy on some occasions, it has, I am afraid, been too much owing to the conduct of the magistrates; and their opposition to some late laws is to be imputed, I believe, to the nature of the laws themselves. It is impossible, Sir, for a legislature to inforce immediate obedience to an unusual law, without very great reluctance from the people, before they are convinced that this law is really for their good. And, Sir, give me leave to say, that it will take a good deal of art to persuade the people of the expediency of some laws lately passed. Nay, Sir, I should not myself be easily convinced, that some late laws might not have produced all the good for which they were intended, and yet have appeared in a shape more agreeable to the body of our people. Are gentlemen to suppose

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that a people will submit to laws which they look upon oppressive and inconsistent? In this part of the country, Sir, they are obliged to submit to laws; for instance, the late act against spirituous liquors, which pretends to pluck up an old but beloved disease by the roots, while the manner of detecting delinquents against this law gives rise to numberless villainies amongst the meaner sort: for it is, Sir, in the power of any rogue, as the law now stands, if he can digest perjury, to ruin an honest man and his whole family. Can therefore gentlemen be surprised at a law, so disagreeable in its own nature, to the people, the meaner sort, at least, for I have never heard any body else charged with opposing it, should meet with opposition from them? Yet, Sir, this is a law of which we were so fond, that we actually bought it. Yes, Sir! we bought it of the government at the rate of 70,000*l.* and upwards.

In another part of the country, Sir, in Scotland, the clergy are obliged, by a late act for that purpose, to read more than once from their pulpits a Proclamation, or a Declaration, I do not know how you call it. Why, Sir, I am told the people in that country laugh at this act; and if the government were strictly to enforce it, they would hazard another rebellion. So that, Sir, it is our duty, before we pass any act that affects the body of a people, always to consider whether the advantages accruing from such an act are sufficient to counterbalance the unpopularity of our passing that act, and the odium and expences which the government must incur by putting it in execution. When I say this, Sir, I hope no gentleman will infer that I would court popularity at the expence of any measure that is for the good of the people. But I know, that some governments have found the secret of reconciling the people's real interests to their inclinations, and believe that in all good governments the most beneficial laws are generally the most popular.

But, besides blunders which we may have committed in a more public capacity, I am afraid, Sir, that in other respects we do not a little contribute to spread this spirit of discontent. When a people, Sir, sees their superiors abandon the principles that make them honest men, they presume, not unreasonably, that they have lost every quality that forms an honest representative. When they see luxury and extravagance supported upon the emoluments of public posts, the meanest subject in the nation, if he knows any thing, knows that he helps to pay for these luxuries, and that they are maintained on the spoils of his country. When Sir, the people see gentlemen wasting their private estates in idle pursuits, and unprofitable vices; they know that these gentlemen have no other way to repair the shattered remains of their fortunes, but by preying upon the public. When they see corruption and venality openly avowed, even though some of them taste it, they know, or at least they suspect, that an administration must be weak when it requires such supports.

Give me leave to borrow an expression, and to say, 'that it is ours to mend the 'hearts of the people.' It is our duty, Sir, by each of us living within the bounds of our own private fortunes, to preserve our independency upon any man or any minister whatever; and thus shall we be enabled to preserve the independency of the legislature. Then shall we see the public debts decrease, the dissatisfaction of the people subside, and the distinctions of parties abolished. We shall then have no need of a standing army; because then, Sir, there will be no occasion to rule by a party; for that party amongst us, which either by its principles or practices opposes these good ends, becomes a faction, let its majority be ever so great. I have heard, Sir, many invidious insinuations and reflections thrown out against a certain Opposition that I could name, and I hear a great talk without doors about a reconciliation. Sir, I know not any reconciliations that I could wish except one: Others I never desire to see, unless they are founded on the liberties of the people; and, Sir, I think an Opposition upon virtuous principles the only security that our country can hope for, and I here openly profess my determination always to join in such an Opposition.

Those gentlemen who are for our agreeing to this resolution, in my opinion, make but a very indifferent compliment to his Majesty, who has recommended unanimity and dispatch to us so strongly from the throne; yet, Sir, in the very beginning of our session, we have here a bone of contention thrown amongst us. We are, it seems, not only to agree to the keeping up the same number of forces which we had last year, but we are to add to the charges that attend them, the expence of raising a new regiment to be sent to our plantations. Sir, I cannot conceive how gentlemen should suppose that if such an unreason-

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able resolution is brought in, we can act in the manner his Majesty has so wisely recommended. I say, Sir, so wisely recommended; because, on the unanimity of this parliament depends the judgment which foreigners will form of our strength and resolution in this important crisis of our trade. If they shall find unanimity in our resentment at home, they will expect the same unanimity in our resentment abroad, if it shall be found that any of our neighbours have insulted our flag, or plundered our merchants; it will let them see that both the nation and the parliament are resolved to behave with such duty and zeal for their country, as to stand in no need of being over-awed by a standing army. And foreigners will then despair of finding a party who shall abet them here.

Sir *Robert Walpole* rose again, and spoke as follows:

Sir; Whatever groundless insinuations some gentlemen may throw out about any attempts that have been or are to be made upon the liberty of speech; one gentleman, since the opening of this debate, has told us, 'That he could wish that things 'were to run into confusion; because out 'of confusion may arise order.' A wish so shocking to the ears of a dutiful subject, and so contrary to the dignity of this assembly, that I hope never to hear the like repeated within these walls. It was saying, in other terms, that he wished to see the succession of the present royal family set aside, and the nation involved in the dismal consequences of civil war, rather than that we should agree to a measure which the wisdom of all parliaments, since the late Revolution, has thought necessary for the preservation of our liberty. I cannot, indeed, understand how gentlemen, during the course of this debate, can reason as if this resolution was such as had never been agreed to by any parliament, and that it was a direct infringement of our constitution. This is calling in question the honour and the integrity not only of all the parliaments, but of every gentleman who has voted for this measure in these parliaments, for 40 years past. And I am sure my good friend who spoke last, has very good reasons, known to himself and me, for supporting their authority.

My hon. friend was pleased to inveigh very severely against the luxury and vice that reigns but too generally amongst us. I know not from what this luxury and vice proceed; but proceed from what it will, I am sure it does not proceed from any example set by the royal family; for I am persuaded that every gentleman who hears me, is sensible that no nation was ever blest with a royal family, that has given such eminent instances of frugality and temperance, as the family that is now upon our throne. If a people, Sir, grown wanton with liberty and riches, shall degenerate into luxury, is a prince or his ministers to be blamed for that? Or if the people are tainted with discontent and dissatisfaction, are we to endeavour to cure it by giving up the only means of restraining them? Yet this, Sir, is the very thing for which some gentlemen have argued so strenuously since the opening of this debate. It has been allowed on all hands, that had it not been for our standing forces, the nation must have ere this time run into confusion from that spirit of dissatisfaction, that has broke loose among the people. But, say some gentlemen, that spirit is occasioned from the oppression of the government. But they have not been pleased to give us any instance of such oppression; they have given us no instance of an invasion upon the liberty and property of any subject: They have not given us one instance of any incroachment of the military upon the civil power, or of one attack that has been made by the administration to subvert the freedom of parliament. There is nothing more common, Sir, than to raise a clamour upon the topics of bribery, corruption, and venality, and nothing more easy than to make the people believe that when an administration continues long in the same hands, it can only be by these means. But this is a misfortune that has attended the best administrations in all ages and in all countries. The very success that a minister meets with, is improved by his enemies to his prejudice. If a majority in this House concur with his measures, it must be the effect of corruption. If he has the favour of the prince, he owes it to flattery and misrepresenting the state of the nation. Does the kingdom under his administration enjoy a profound peace, an extended commerce? This is attributed to the minister's sacrificing something still more valuable than these advantages, in order to procure them. So that, Sir, the very well-being of a state gives a handle to clamour against the minister; whereas, in reality, his success in the parliament may be owing to the justice of his measures; the favour he is in with his prince, to his integrity; and the increase of the national

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wealth and power, to his vigilance and the firmness of his resolutions. Sir, I shall make no particular application of what I have said here; only one thing I will be bold to affirm, that had the clamours that have been raised in Great Britain these 18 years past against the administration been well founded, we must before this time have been the most miserable, the most beggarly, and the most abject people under the sun. But, Sir, is there no other vehicle by which luxury may be introduced, besides that of ministerial corruption? Give me leave to say, Sir, there is; and that the riches which a nation may acquire by trade, under a good administration, is the principal and indeed the natural source from whence the luxury which the hon. gentleman inveighs against, proceeds. These riches, Sir, induce the trading part of the nation to abandon the frugal maxims of their ancestors; the landed interest, Sir, emulates the trading, and their wealth increasing in proportion as trade flourishes, they improve likewise in all the luxuries of life. These luxuries, Sir, after some time, create wants; wants produce necessities; necessities, dissatisfaction; and when they are reduced in their circumstances by their own extravagancies, they exclaim against the heaviness of taxes, the decay of trade, and the corruption of ministers. A minister is answerable, Sir, in some measure, for the wealth of a nation; but he is not answerable for the abuse of that wealth. And when gentlemen exclaim against the luxurious living of a nation, they are mistaken if they think that thereby they hurt the reputation of a minister in the eyes of considerate men. No, Sir, they bestow a tacit encomium upon the minister; for under a bad administration, especially if it is a long one, it is impossible for the nation to supply these luxuries, without the nation's feeling in a very few years the whole balance of trade with their neighbours turning against it: And I dare say, that no gentleman in this House can affirm that this is our case at present. Thus much, Sir, I have thought fit to say, not in answer, but by way of supplement to what the hon. gentleman observed with regard to the general depravity of morals so visible throughout the kingdom.

But were I to be asked, Sir, what remedy is then to be applied to this general depravity, my answer would be, the answer of every gentleman who judges coolly and impartially; that nothing is more likely to gain this end, than a due submission to that government, which enacts no laws but by your own consent, and raises no taxes but your own safety requires. This, could we effect it, Sir, (to use the same expression with the hon. gentleman) 'would be mending the hearts of the people,' and without this, all the methods that either the king or the parliament can fall upon for that purpose must be unsuccessful. I wish, Sir, that all the gentlemen in this House could say, with a clear conscience, that they had no other view than this, in all their pursuits of popularity and pretensions to patriotism: and I wish, Sir, that the actions of gentlemen would prove to the world, that their sole aim is not the destruction of the minister, but the good of their country.

As to what the hon. gentleman talked about the just grounds of discontent among the people; I am sorry to hear any gentleman in this House insinuate, that the acts and laws passed by this House can give the people any just ground of discontent. It proceeds from another quarter, Sir; for there is nothing more certain than that, if our people are once rendered discontented with the government, they soon become disaffected with the establishment: and, Sir, though I admit that a man of sense may be attached to our present establishment, and yet dissatisfied with some steps of the administration, yet it is otherwise with the common people; with them discontent, disloyalty, and rebellion follow so close on one another, that they are one and the same thing. Had certain gentlemen, Sir, who have lately joined in some measures against the government, sufficiently reflected on this truth, I am persuaded such is their attachment to his Majesty's person and family, that they would not have assisted so much as they have done in promoting the dissatisfaction that prevails among the common people. For, Sir, the faction which is in the interest of the person who disputes his Majesty's title to the crown, always presumes, that whoever is against the administration, is against the establishment likewise; and nothing has more contributed to keep up the spirit of that party, than their industriously propagating that doctrine. This, Sir, is the true reason that they look upon the lenity of that government as the effect of its weakness, and that they attribute the indulgence they meet with to our fears. This, Sir, is the true reason why they endeavour to improve to their advantage

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every accident that happens in the nation, though perhaps it is very distant from their purpose, and fell out contrary to their hopes. This, Sir, was the reason why, on the late melancholy event that afflicted the nation,* their hopes revived, their cabals were set on foot, and every tool of their party was employed in their consultations how to bring about their favourite point. There are many in our galleries now, Sir, who know what I have said to be true, and if they had the privilege of speaking here, could, if they pleased, convince us how improper the proposed reduction is, while such a spirit subsists in the kingdom.

Sir, I have known a time when gentlemen acted on true Whig principles; and at that time, Sir, they seemed to be of opinion, that the best, if not the only way to secure us from Popery, and arbitrary power, was by securing the present establishment of the crown in his Majesty's person and family. They were then of opinion, Sir, this was best done by our keeping up a regular body of forces, and I should be glad to know if the same reasons do not subsist now as did then, or if they who are the enemies of our present establishment have been weakened by the opposition of these gentlemen to the administration.

Mr. *Pulteney* replied to this effect:

Sir; I think a man is an honest man, who votes according to what his conscience tells him the present situation of things requires; and an honest man, Sir, if he sees the circumstances which induced him to vote in favour of a resolution last year altered, or if he finds that he himself has been mistaken in the apprehension of these circumstances: I say, Sir, an honest man will, in either of these cases, vote this session directly contrary to what he voted before. If ever I voted for a standing army, Sir, in time of peace, it was when my conscience told me that the preservation of our liberties required it. But, Sir, though at that time, perhaps, I was convinced that our keeping up a standing army for one year was necessary; it does not follow that I act inconsistently, if I do not vote for a perpetuity of that army. Therefore, though a gentleman has voted for every question, for every job of the ministry; though his whole life has been but one continued vote on their side; yet he ought neither to be ashamed nor afraid to oppose them, as soon as his own judgment or the situation of things is altered. This is acting upon no other principles, Sir, but those of an honest man, and a lover of his country; and, as the distinction between Whigs and Tories is now in effect abolished, I hope soon to see our people know no other denominations of party amongst us besides those of court and country. The hon. gentleman talks of the establishment of the government, and of the administration; but, Sir, I know of no establishment, I know of no government, I know of no administration that ought to be kept up, but for the preservation of the liberties of the people: for it is not twopence matter to me, whether the prince's name under whom I am to be enslaved, is Thomas, James, or Richard; I am sure I shall never be enslaved under a George.

And here give me leave to say, Sir, that the establishment of the crown in his Majesty's person and family can only be secured by our securing the rights of the people. This, Sir, is the charter by which his Majesty holds his crown; and whoever separates the interests of the people from those of the establishment, must be either ignorant of our constitution, or a traitor equally to his prince and his country. For this reason, Sir, to me it is evident, that if the Pretender had an agent in his Majesty's councils, or in this House, that agent would employ all the force of tongue and lungs, he would even out-vote a minister, and out-speech a place-man in his zeal for this resolution; nor could a more effectual way, Sir, to promote that person's interest be thought of, than our agreeing to bridle the kingdom with 18,000 men: because it is, in effect, telling all the powers in Europe, that so weak is the administration of Britain, and so much are they hated by the people, that they dare not venture to make one step in the government without their bully-back, an army. While your army continues, Sir, discontent must increase, and the more discontent increases, the fairer is the Pretender's chance for succeeding; whereas, if the people were reconciled to the government, he could not have the most distant prospect of success: for I dare say, very few in Britain at present wish him well on his own account; and the few deluded persons who do incline to his party, do it only because they are so weak as to imagine, that the one evil would be less than the other. Wherefore, Sir, as I wish the crown of Britain

* Alluding to the Queen's Death.

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may continue for ever in his Majesty's person and family, as I hope never to see the pretensions of any other person succeed, and as I think the reputation of the kingdom is interested in the fate of this question, I must agree to the proposed reduction.

Sir *William Windham* spoke next:

Sir; I think it strange, that this mighty secret of our fears about the Pretender, has never been discovered during the whole course of this debate, till the hon. gentleman who spoke last but one disclosed it. I am glad, however, that it is at length discovered; for now gentlemen may have a very clear state of the case; which is, whether we ought to put the nation to the expence of maintaining 18,000 men, for no other reason but because a certain gentleman is afraid of the Pretender? This is, I think, a clear and a true state of the case. As for the hon. gentleman's fears, they put me in mind of a mad fellow, called Butler, who used to go about, and at times would appear very much frightened at a certain phantom of his own brain, whom he called prince Kantemir. This phantom haunted him about from place to place, and nothing could drive it out of his head. Really, Sir, I don't know what friends the Pretender may make in the kingdom, if we shall continue our army; but if we reduce that, I dare say his interest would exist no where but among a few madmen.

Mr. *Pelham* said:

Sir; The gentlemen who have spoke for the proposed reduction, have all along taken it for granted, that if our standing army were removed, the causes of discontent, which is allowed on all hands to be very great amongst our common people, would be removed likewise. But, Sir, their opinion cannot be supported either by reason or experience. Reason tells us that a people who are discontented, will prove rebellious as soon as the government becomes too weak to restrain their outrages: and we find, Sir, by experience, that no reduction ever was attended by any return of gratitude on the part of the common people. So that, as gentlemen have been stating this question in their manner, I shall beg leave to state it in mine. And it is, Sir, whether it be most probable that his Majesty will abuse his power, if we shall keep up the army; or that his enemies will lay aside their designs, and the people return to a due submission to the civil magistrate, in case we reduce it? Indeed I do not know what are the sentiments of other gentlemen; but I own, Sir, it is no hard matter with me to determine myself in this case; and for this reason, to give my vote in favour of this resolution.

Mr. *Walter Plumer* said:

Sir; The reasoning of the hon. gentleman who spoke last, is not unlike that of a physician who was called to visit an acquaintance of mine. Two or three other members of the faculty were called at the same time, and all of them, except this physician, agreed in their consultations, that the nature of the patient's disease required lenitives: The reason which this singular doctor gave, for differing from his brethren, was, "That corrosives were only to be cured by corrosives." Sir, we have long had corrosives applied, to correct the sharp humours of a people whose constitution has been vitiated by a course of severe exactions and taxes, without any apparent advantage to the kingdom. And it was reasonable to expect, Sir, that by this time some lenitives should have been applied. But this, Sir, it seems, is not agreeable to the maxims of the hon. gentleman, who last session entertained us with the ever-memorable speech, which he concluded by telling us from a Roman poet, 'Immedicabile vulnus ense recidendum.' I am afraid, that this, Sir, may indeed be the only remedy that can be applied, if we should proceed in exasperating the people, by not only continuing but increasing the principal grievance they have.

Sir *Joseph Jekyl* spoke next:

Sir; I acknowledge that formerly I used to give my vote for keeping up a standing army in time of peace, because I thought we could never use too many precautions against the growing power and the aspiring genius of France.—But the Providence of Heaven has raised up another power in Europe, which seems by the check she has already given to the French ambition, to be an over-match for her in the field: Gentlemen will easily perceive that I mean the empress of Muscovy, whose empire till within these few years had but a very small share in the balance of Europe. For this reason I think there is not the least pretence, Sir, for keeping up a standing army on account of the situation of affairs abroad; that pretence being effectually

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removed by the sudden growth of the Muscovite power, from whom we have nothing to fear, either on account of their situation or interest. So that, Sir, the reasons why we are to keep the proposed number up, must be of a domestic nature. And indeed, if I were convinced that they were of the least use in enabling the civil magistrate to put the laws in execution, I should give my vote without hesitation for the present motion. But, Sir, when I see the people of all ranks so averse to a law which was the only means left by which the legislature could prevent a total degeneracy of their morals, and the absolute ruin of their health; when I see they value themselves upon murdering the persons by whose information alone the offenders against that law can be convicted; and when I see that our regular forces have been of no use in suppressing those disorders; I am inclined to suspect, Sir, that the infection has spread into the army itself. I am the more apt to believe this, Sir, because I had it lately from good hands; that many of the soldiers actually were disguised among the mob who murdered these poor men, and were very instrumental in the riots. If this infection should proceed farther, Sir, we have reason to fear that our army will soon be as obstinately disobedient to the civil magistrate as our people are, and this must produce worse consequences than any gentleman has yet mentioned. It may be urged, that soldiers being subjected to the military laws, dare not attempt to oppose the will of their superiors; but why should we expect from them a greater deference to their officers than from the people to the justices. And give me leave to say, Sir, that a mutiny of the army is more dangerous than a mob of the people, for this plain reason, that the punishment which attends the one is but light, when compared with what is inflicted on the other. If one or two of the ringleaders of a mob are made examples, Sir, the justice of their country is satisfied; but the martial law inflicts the pain of death upon every man who is concerned in a mutiny. For this reason, soldiers once engaged in a mutiny will be more obstinate and refractory than other people; because, though they should lay down their arms, their lives are forfeited; so that their real safety lies in persevering in their rebellion. Therefore, I think it is against the rules of good policy, Sir, for us to keep up a body of men, who very probably are tainted with that spirit of disobedience that has gone abroad amongst our people, and from whom there is nothing so bad but what we have to fear, should this spirit induce them to throw off the allegiance due to their superiors.

Thus far, Sir, I am of the same side of the question with my worthy friend who sits over against me. But I wish the same hon. gentleman had explained some expressions which he dropped with regard to the law I have just now taken the liberty to mention. I am neither ashamed nor afraid to say, that I had a great hand in getting that law passed; and I think, though we had even paid the sum for it, which the hon. gentleman has mentioned, we bought it cheap; for it was paying 70,000*l.* for insuring the health and strength of a whole people. As for the inconveniences that may arise from the execution of this law, I am sensible there are several; but, Sir, I believe as few as ever attended the execution of a law, so unpopular, and at the same time so necessary. However, if the further consideration of that law should come before us, as I believe, Sir, it soon may, I shall very willingly concur with any motion that can put us in a way of making it less subject to abuse. In the mean time I am of opinion, Sir, that it will greatly contribute to the safety of our constitution, and the reformation of manners amongst the common people, if we agree to the proposed reduction.

Mr. *Joseph Danvers* said:

Sir; We have had a great deal of debate this night about the constitution and government of this and other nations; and there is no question, Sir, but there are many different ones in the world. But I believe the people of Great Britain are governed by a power that never was heard of as a supreme authority in any age or country before. This power, Sir, does not consist in the absolute will of the prince, in the direction of parliament, in the strength of an army, in the influence of the clergy; neither, Sir, is it a petticoat government: but, Sir, it is the government of the press. The stuff which our weekly news-papers are filled with, is received with greater reverence than acts of parliament; and the sentiments of one of these scribblers have more weight with the multitude than the opinion of the best politician in the kingdom. This is the true reason, Sir, why prudence obliges us to agree to the keeping up the number of

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forces that was first proposed. For my own part, it is very well known that I hate a Standing Army as I hate the devil: but, hateful as it is, I do not know how we could live without it. And if the proposed reduction were to take place, the first thing I should do, would be to shut up house in the country, and come and live near justice Deveil; for I do not see that any man is safe, unless he lives either near him, or in a barrack.

Some gentlemen have been at great pains to ridicule the fears of the Pretender as being chimerical; but, Sir, I have letters in my pocket, which must convince every impartial person, that we have more to fear from the Jacobite faction, than some gentlemen seem to believe we have. Therefore, Sir, I shall beg leave to enter into the particulars of an impudent treasonable proceeding, that happened within these few days within the town of Leicester. On the first day, Sir, of this very month, several papers were found posted up within that town, containing the most impudent and treasonable insults upon his Majesty and the government, that I believe, were ever yet committed at a time when there was no open rebellion in the nation. They contained no less, Sir, than an alarm to the people, in favour of the Pretender, and imported a resolution of proclaiming him the 10th of June; which, Sir, by the way, is his birth-day. After an insult of this nature, Sir, committed in defiance of the government, in a country town, will any man say that we have nothing to fear from the Jacobite faction? Or can we imagine that the authors of these treasonable libels have no abettors in the country? They have, Sir, I am afraid, but too many, and were our regular forces to be reduced, I believe they would have more still; and they would soon come from threatening to acting. The question, then, Sir, among the populace, would not be, who is for the King, or who is for the Pretender? They would only ask, Who is for, or who is against the government? And every man, Sir, who should act against the government, be his motive, ambition, disgust, disappointment, principle, revenge, or any other cause whatever, such a man, Sir, would be sure to have them for his friends; for it is recommendation enough to them, if he is an enemy to the government, no matter to whom he is a friend. Therefore, Sir, I think the safety of the nation, at present, requires that we should make no reduction of our forces.

Upon the report which was made by the chairman of the Committee next day to the House, the Estimate for the Regiment to be sent to Georgia was objected to, by some gentlemen who spoke in the foregoing debate against the Resolution, upon this occasion.

Colonel *Mordaunt* said:

Sir; I am surprised to find that some gentlemen do not distinguish between the army now proposed to be kept up, and that sort of Standing Armies which the Whigs in former reigns spoke and wrote so much against. The Whigs, it is true, have always been against keeping up Standing Armies in time of peace by the sole authority of the King, and without consent of parliament; but no Whig ever said that it was inconsistent with, or that it would be dangerous to our constitution, to keep a few regular troops in pay for one year, in case the parliament should upon mature deliberation conclude, that such a thing was necessary either for the securing the peace and quiet of the nation against the secret designs of foreign or domestic enemies, or for giving weight to any foreign negotiation our government might then have upon the carpet. This, I say, Sir, no Whig ever opposed; and for this reason, the words, 'unless it be with consent of parliament,' were inserted in the declaration of our rights and liberties, which was presented to the then prince and princess of Orange at the Revolution, and which may properly be called the second Magna Charta of this nation.

If the Whigs of those days had been of the same opinion which some gentlemen seem now to be of; if they had thought that the keeping up an army of any kind, or for any time, was inconsistent with our constitution, that article in the declaration would certainly have stood thus: "That the raising or keeping a Standing Army within the kingdom, in time of peace, is against law:" and I must leave to gentlemen to consider whether such a declaration would not have been in itself ridiculous? For my own part, I must be of opinion, that it would have been a little inconsistent with common sense to have declared, that an army kept up by the authority, and with the consent of King, Lords, and Commons, was an army kept up against law; for it would, in my opi-

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nion, be the same with declaring, that a law agreed to by all the branches of our legislature was against law. This, Sir, the Whigs of those days were sensible of; and if they were now alive, they would be far from pretending to say, that it was inconsistent with the principles of a true Whig, to give his vote for keeping up, for one year, by authority of parliament, such a number of regular troops, as he thought absolutely necessary for the public good of the kingdom.

I have always gloried, Sir, in being thought a Whig; I hope I shall never, by my behaviour, either in this House or without doors, give the least occasion to the world to think otherwise of me; and for this very reason I am for keeping up an army, because I think the keeping up of an army absolutely necessary for supporting the Whig interest, and preserving the peace and quiet of the people. In every dispute that has happened of late years about our army, I have looked upon the question to be chiefly, whether Whig or Tory should prevail? And as I have always thought, as I believe, every unprejudiced Whig in the kingdom thinks, that if the army should be disbanded, or very much reduced, the Tory interest would prevail; therefore I have generally been against such reductions, and always shall be extremely cautious of agreeing to any such proposition. Nay, I am so firmly attached to the Whig interest, that if I should think four times the number of troops absolutely necessary for supporting that interest, I would be for keeping up a Standing Army four times as numerous as that we have now on foot.

That there are discontents among the people, Sir, and that those discontents are too general, I shall readily agree; but whether they are owing to disaffection, I shall not pretend to determine: I am sure they are not owing to reason; for there is no country in the world where the liberties and properties of the subject are more sacredly preserved, nor are there any subjects who pay less for the ease and security they enjoy, than the subjects of this kingdom; but there are some men who seem to think they ought to pay nothing, nor be at any trouble, for preserving to themselves the blessings of peace and security. To please such men, or to prevent their being dissatisfied, is impossible; for government must always be expensive: Some must be employed for managing and transacting the affairs of the society, and some must now and then expose themselves to danger for the defence of the society; and it is both reasonable and necessary, that those who spend their whole time, or a great part of their time, in government affairs, as well as those who venture their lives for the preservation of others, should be rewarded by those, who by their means are enabled to prosecute their own private affairs with safety, and without interruption. There are other men, and those not a few, who are so fond of novelty and change, that they are continually wishing for public convulsions and revolutions: Such men are of so odd a temper, that they become dissatisfied with the security they enjoy, and a long uninterrupted course of public happiness renders them completely miserable; and there are others, who never can be pleased, unless they have the intire direction of all public affairs; therefore when they are not employed, and chiefly employed, they are continually spreading virulent libels, and seditious pamphlets against those that are, by which means many unwary persons are caught, and are made to believe, that the nation is ruined and undone, though every man in the nation, who is tolerably frugal and industrious, finds himself in an easy and thriving condition. These are three of the causes of those discontents that prevail at present among the people; and if to these we add downright disaffection, which I am afraid is much more general than some gentlemen imagine, I believe we may account for all our discontents, without loading our government with being the cause of any of them, except those of the second sort I have mentioned; for to the wise and steady conduct of our government, we must attribute the long and uninterrupted public happiness we have enjoyed, and consequently the dissatisfaction of all those, who are fond of novelties and changes.

But, Sir, let the cause of our discontents be what it will, they are so general, that if it were not for our army, I am convinced our present establishment would be in great danger of being overturned; I am convinced his Majesty could not live in safety in St. James's palace; nay, I doubt if our present royal family could remain three days in the kingdom: Therefore, as a Standing Army is at present absolutely necessary for preserving our happy establishment, for the security of our royal family, and for defending his Majesty's

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person, no gentleman, who has a true regard for any of the three, can be against keeping up a Standing Army by authority of parliament, at least for this ensuing year; and as I am convinced, that a less number of regular troops than we have at present, will not be sufficient for these great ends, I must be against the reduction proposed, or any reduction that can be proposed at present.

I say, Sir, I am now against any reduction that can be proposed; for though I do not think we can now with safety make the least reduction of our army, yet in a few years, perhaps next session, I may be of a different opinion. I shall always think that we ought never to keep a greater number of troops in pay, than is absolutely necessary for preserving the peace and tranquillity of the people; but my way of thinking in this respect does not proceed from any apprehensions I am under, that an army kept up in the same method as our present army is, can ever be of any dangerous consequence to our constitution. No, Sir, it proceeds entirely from the expence, which necessarily attends the keeping up of a Standing Army; which expence the people must be loaded with; and I shall never be for loading the people with any greater expence, than I think absolutely necessary for their preservation. For this reason, I hope we may soon have an opportunity of giving the people a little ease, by making a reduction in our army; because I am of the same opinion with my honourable friend near me: I believe the disaffection, which I take to be the chief cause of our present discontents, will diminish by degrees, nay, I hope it will in a few years totally evanish; and if there were no considerable disaffection, nor any great number of jacobites in the kingdom, I am convinced a much smaller number of troops than what we have now on foot, would be sufficient for keeping in awe those men, who are discontented only because they are not employed, and also those who are fond of changes and revolutions, as well as those who are so unreasonable as to expect that their lives, liberties, and fortunes, should be preserved, without their being ever obliged to expose themselves to any danger, or to put themselves to any trouble or expence, on that account.

When the disaffected party becomes inconsiderable, I shall with pleasure, Sir, give my consent for making a reduction in our army; but until then I cannot agree to it; and I must say, I can never suppose the disaffected party inconsiderable, as long as I see the discontented numerous, without an apparent cause for such a general discontent, from some notorious oppressions or malversations in our administration; for unless some cause be evident, I shall always believe that most of those who appear discontented, are really disaffected. As I must look upon such a discontent as incurable, I shall always be for treating those that are under it in the same way with incurables of another sort, that is, by putting it out of their power to do mischief; which can be done only by keeping up a sufficient number of regular troops.

But even suppose, Sir, that the discontents of the people proceeded from notorious oppressions or malversations in our government: surely, no gentleman will say our army ought to be reduced before those discontents are removed in a proper and legal way; because, by so doing, you would encourage your people to take vengeance of those that had injured them in a riotous and tumultuous manner, which is a method of doing justice, that I am sure ought not to be encouraged in any well regulated society. In such a case, the only prudent method we could take, is that which is prescribed to us by our happy constitution, I mean that of a parliamentary enquiry; and after you have satisfied your people by bringing the guilty to condign punishment, in a legal and parliamentary method, you might then with safety venture to make a reduction of your army.

Thus, Sir, if there are such discontents in the nation, as the gentlemen of the other side of the question seem to think there are, let those discontents proceed from what cause you will, the present must appear to be a very improper season for making any reduction of your army; and as to the charge of keeping up about 6,000 men for one year only, which is all the difference between us, though I shall grant it is a charge the nation ought not to be unnecessarily loaded with, yet it is not so great, as to make any considerable addition to the public debts newly contracted, nor can it greatly prevent our being able to pay off the old; for the difference as to expence, between maintaining 18,000 men, and maintaining 12,000 for one year only, does not exceed 216,000*l.* which can make no very extraordinary figure in the public accounts of this nation, and must be

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looked on as a sum most wisely and frugally expended, because the nation is thereby insured against the vast expence, as well as danger, the nation would be put to, by an insurrection or invasion, which might probably be the consequence of any present reduction of our army.

But suppose, Sir, there were no discontents or disaffection among our people, suppose we were in no possible danger of any insurrection or invasion; yet considering the present state of our foreign affairs, considering the precarious state of the peace now subsisting between Spain and us, and the many grounds of quarrel we have with that nation, I must think it would be very imprudent in us, at present, to make any reduction of our regular troops; for the regard a nation meets with in all foreign negotiations, very much depends upon the opinion foreigners have of her power; and that opinion now depends chiefly upon the number of regular troops she has in her pay. None of our neighbours put any trust in their own militia, and therefore it cannot be supposed they have any regard for ours, or that they would shew us any respect on account of our militia, were it in a much better condition than it is in at present, or were it in as good a condition as any militia can be put in. For this reason, to the end that this nation may have its due weight in all foreign negotiations, we ought always to keep up a good body of regular troops; and particularly at present, if we have a mind to obtain any redress from Spain, we ought not to reduce any part of our army; for that redress must be obtained either by negotiation or by force of arms: if we propose to obtain it by negotiation, a reduction of our army would diminish the weight of any negotiation we can carry on for that purpose; and if we propose, or should be obliged, to make use of force for obtaining it, we must rather add to than diminish our army. From all which I must conclude, that at present it would be highly imprudent in us to make any reduction, especially such a considerable reduction as is now proposed.

Lord *Polwarth** spoke to this effect:

Sir; I am sorry to find the opinions of our Whig ancestors, about Standing Armies, so much mistaken as they seem to be by some gentlemen who have spoke in this debate; for with respect to the effects or consequences of a Standing Army, it will appear that our ancestors thought there was no difference, between a Standing Army kept up without the authority of a Parliament, and a Standing Army, or a land force, as the courtiers affected to call it, kept up from year to year by the authority of Parliament. I shall grant, that before the Revolution all our disputes about Standing Armies, related to such as were kept up by the sole authority of the king, and without consent of parliament: for before that time no Whig supposed that a free parliament would ever give their consent to the keeping up of a Standing Army within the kingdom in time of peace. This was the true reason for their agreeing to the inserting those words, "unless it be with consent of Parliament," in the declaration of our rights and liberties. By these words they thought they could not in the least derogate from our security, against the keeping up a Standing Army in time of peace; because they could not suppose that a free Parliament would ever consent to any such thing: but if they had foreseen or imagined, that some future Parliament might be prevailed on to give their consent to the keeping up of a Standing Army in time of peace, that article in the declaration of our rights and liberties, would certainly have been drawn up in such terms as not to admit of any such exception. They would not have said, that the raising or keeping up a Standing Army within the kingdom, in time of peace, is against law; because the expression would have been improper, and such as could not have been made use of by any man who understood our language; but they might, and would have said, that the raising or keeping up a Standing Army within the kingdom, in time of peace, is inconsistent with our constitution; for though a law agreed to by King, Lords, and Commons, cannot be said to be against law, yet it may be, and may properly be said to be, inconsistent with our constitution. If in some future ambitious reign, and during the course of a corrupt and dependent Parliament, our King, Lords, and Commons, should agree to a law for vesting an absolute power in the King, such a law could not be said to be against a law; but surely such a law might properly be said to be inconsistent with our constitution.

I shall not say, Sir, that the passing of a law for providing our king with such a Standing Army, as may be sufficient for

* Afterwards Earl of Marchmont.

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enabling him to assume an arbitrary power whenever he pleases, is a law of this nature; because I am not of opinion with Mr. Hobbes, that power gives right; but I must be of opinion, that he who gives another man power to take his right from him, may in some measure be said to give up his right; for right is seldom of any signification against a power that cannot be resisted; and a Standing Army kept up from year to year, by authority of Parliament, is certainly as irresistible, and consequently as inconsistent with the preservation of our rights and liberties, as a Standing Army kept up from year to year without any such authority. The distinction between these two sorts of Standing Armies, is a distinction which could not be made, nor ever was made, in this kingdom, till the year 1697: then, indeed, the courtiers, who were for obtaining the consent of Parliament to the keeping up of a Standing Army in time of peace, found out this distinction; for I must observe, that in all reigns, courtiers seem to have been pretty quick at finding a distinction without a difference; but when I reflect upon the transactions of that year, I am extremely surprized to hear any gentleman affirm, that no Whig ever said, that it was inconsistent with, or that it would be dangerous to, our constitution, to keep a few regular troops in pay for one year, in case the Parliament should give their consent. Was not this the very question then in dispute? And did not all the true Whigs range themselves upon the affirmative side of the question? Did not they all, both in their speeches and writings, affirm, that the keeping up of a Standing Army from year to year, whether with or without the consent of Parliament, would be of the most dangerous consequence to our constitution? They did not then say that the Parliament ought not to consent to the keeping up a Standing Army in time of peace, because we were then under no necessity for so doing; but they said we never could be under any such necessity; because the danger we subjected ourselves to, by keeping up a Standing Army in time of peace, was greater, and more to be dreaded, than any other danger we could ever be exposed to.

This, Sir, will appear from the whole tenor and spirit of the pamphlets that were wrote by the staunch Whigs upon that occasion; particularly from the two Arguments against a Standing Army, published in the year 1697, and said to have been wrote by a gentleman, whom all the world must allow to have been a true Whig, and an honest man; I mean the late Mr. Trenchard, who in one of these pamphlets expressly says, that an authorized Standing Army (meaning an Army kept up by authority of Parliament) is worse than a foreign invasion, and conquest from abroad. This, Sir, he not only gives as his own opinion, but he gives very substantial reasons for supporting his opinion. That honest gentleman was in the same case with many gentlemen now in this House: he could not distinguish, at least he could find but very little difference, between a Standing Army kept up by authority of Parliament, and a Standing Army kept up without any such authority; for he says, the Army kept up by the late king James were aids and instruments of arbitrary government, without any legal authority, and therefore might have been resisted and removed as a nuisance, as soon as the nation found itself able; and an Army kept up by authority of Parliament, he likewise calls aids and instruments of arbitrary government; but, says he, they are legal instruments, and therefore may enslave us by authority; nor can they be resisted, because they can plead our own act and deed against us. So that in this gentleman's opinion, a Standing Army kept up by authority of Parliament, is worse than a Standing Army kept up without any such authority; and therefore, if he were still alive, we may suppose he would insist upon its being inconsistent with the principles of a true Whig, to give his vote in Parliament for keeping up a Standing Army, but for one year; for he then foretold what we have since in part found by experience to be true, that by the parliament's giving its consent for keeping up a Standing Army in time of peace, but for one year, the courtiers always mean a consent for keeping it up *in secula seculorum.*

Having thus, Sir, shewn the true sentiments of the old Whigs, and by that means justified their memory against what I take to be an aspersion thrown upon their understanding, I must now endeavour to vindicate the present Whig interest, by shewing the impropriety of that compliment, which the hon. gentleman has been pleased to pass upon the Tories. He has told us, that a Standing Army is necessary for preserving the Whig interest, and that if our army should be disbanded, or very much reduced, the Tory interest would

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certainly prevail. God forbid, Sir, it should be so! for if it were, I am sure I should very soon become a Tory; but I differ so much from the hon. gentleman, that I am convinced the Whig interest never will be supported by an army, nor can the Tory interest be supported by any other means. This is my opinion; but as he and I probably differ extremely in what we call the Whig and the Tory interest, I must explain what I mean by them, and what sort of gentlemen ought, in my opinion, to be called Whigs or Tories. The Whig interest I take to be that party of men in the kingdom, who have a due respect to the antient powers and prerogatives of the crown, but think that they ought always to be made subservient to the public good, and that they are bounded by the rights and liberties of the people: The Tory interest, again, I take to be that party of men in the kingdom, who have such a veneration for the powers and prerogatives of the crown, as to think, that the public good may sometimes be made subservient to them, and that they can be bounded by nothing but the pleasure of the King and his ministers. In short, the former is the party that sets up for the liberty of the subject, without encroaching upon any power or prerogative the crown can justly claim; the latter is that which sets up for giving such a loose to the powers and prerogatives of the crown, as to leave no liberty to the subject.

Now, Sir, I do not call a man a Whig or Tory from his behaviour twenty, a dozen, or half a dozen years ago: I give every man the denomination of Whig or Tory according to his present behaviour. If a man set out in the first part of his life with the character of a Tory, and acted as such for several years, yet if he now appears in the cause of liberty, and opposes every scheme that he thinks may tend towards the establishment of arbitrary power, I must call such man a Whig, and while he behaves in the same manner, I shall always suppose him to be in the Whig interest. On the other hand, suppose a man to have been twenty years since, or but one year since, one of the most zealous assertors of liberty in the kingdom, yet if I find that he is now a sanguine supporter of prerogative, and ready to contrive or agree to any scheme that may tend to increase the power of the crown, I must call such a man a Tory, and I must call that interest which he is engaged in, the Tory interest. But I am apt to suspect that my honourable friend calls this the Whig interest, and if so, I shall readily agree with him, that what he calls the Whig interest, being that which I call the Tory interest, cannot be supported without a Standing Army. This may be a prevailing argument with him for being against any reduction, but it is an argument that has a quite different influence with me; for I think no interest, nor any party of men, ought to be supported, if a Standing Army becomes necessary for their support.

I come now, Sir, to an argument which I mention with regret. I am sorry to hear it said by any gentleman in this House, that because the people of this nation are discontented, therefore they must be oppressed; for whatever other gentlemen may think, I take this to be the true meaning of the argument, when they say, that because the people are discontented, therefore a numerous Standing Army must be kept up for keeping them in obedience. To justify their making use of this argument, we are told, that the present discontents among the people are chiefly owing to disaffection. If this were the case, I must confess I should be under a very perplexing dilemma between the regard I have for the illustrious family now upon the throne, and the regard I have for the liberties of my country; but thank God! this is far from being the case; there is not the least pretence for saying that any of our present discontents are owing to disaffection, because in all the riots and tumults we have lately had, there has not been the least muttering heard against the King, nor the least indignity offered, no not so much as to any servant belonging to the royal family; and if any of these mobs or riots had proceeded from disaffection, if the people had been spirited up by Jacobites, if they had been governed by any sort of Jacobite principles, or if they had entertained in their hearts any sort of rancour, malice, or disaffection against the royal family, we cannot suppose them such politicians, or that they would have put such a restraint upon their private sentiments, as not to shew the least sign of them upon such occasions.

This shews, Sir, how groundless it is to pretend that our present royal family could not remain three days in England, if it were not for our regular troops, especially that such a numerous Standing Army as we have at present, is necessary for defending his

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Majesty's person from insults or dangers. No, Sir, whatever may be the case of some of those who are near St. James's Palace, I am sure his Majesty and all the rest of the royal family might remain at St. James's Palace, or any other part of the kingdom, in the utmost safety, though neither of them had any such thing as that now called a soldier to attend them. Of this now we have a glaring proof every day before our eyes. His royal highness the Prince of Wales has at present no guards to attend him: he passes every day to and fro in the streets of London, and travels every where about London, without so much as one soldier to guard him: nay, he has not so much as one centry upon his house in St. James's Square; and yet his Royal Highness lives, I believe, in as great security at his house in St. James's Square, without one centry to guard him, as his Majesty can be supposed to do in St. James's Palace with all the guards about him.

Sir *Thomas Sanderson* said:

Sir; I seldom give this House the trouble of hearing what I can say upon any question that happens to be before them; but sometimes the spirit moves, and then I must out with it. However, though I am at present moved by a sort of spirit, yet I cannot pretend it is a spirit of prophecy: I cannot pretend to tell what will happen twenty years hence, or under any future administration: I have not so much foresight; nor have I have so sharp an eye towards any future administration, as some gentlemen seem to have who have spoke before me in this debate. Whether any future administration will think a greater number of regular troops necessary than we have at present, is what I shall not pretend to determine; but this I may venture to foretell, that no future administration will think a less number necessary; and if I live to see a new administration, I may happen to see some of those gentlemen, who have this day argued so strenuously against the present number, then arguing as strenuously for keeping up a greater number.

Those who call themselves Whigs, are, indeed, the only persons who can, with any confidence, argue against a Standing Army; for if any noted Tory, or suspected Jacobite, should argue against our keeping up a few regular troops by authority of parliament, it would be easy to answer him. Every man would compare him to the fat man, who muttered and complained against the crowd, which he himself was the principal cause of; but I wish those Whigs who now argue against a Standing Army, would consider what they have been, or what they may be. If the Journals of this House had been exactly taken, and religiously preserved, I do not know but it might have been found, that some of them are now making use of the arguments, which they themselves have formerly with great strength of reason refuted; and others may, for what they know, be laying themselves under very great difficulties; for they may perhaps be now laying a foundation for bringing their own authority against their future opinion. It is true, a man may change his opinion; but whatever cause he may find from a change in his own circumstances, he may perhaps find it hard to give a reason for changing his opinion from any change in the nature of things, or in the circumstances of the nation; and no man will then chuse, I believe, to say, that he is now for a Standing Army, because he is a minister, and was formerly against it because he was not.

But, Sir, of all those who have this day declared themselves against a Standing Army, I am surprized at those who are called by the patriots, placemen. I know they call us so by way of contempt; but whatever they think, I shall never be ashamed of serving my country, in any post the crown pleases to put me in, nor can I look upon it as a discredit to have an honour conferred upon me, by what even the patriots themselves must allow to be the only fountain of honour in this nation. I am convinced all placemen are of my opinion, and I am surprized to hear any placemen arguing in favour of a reduction of the army; for we, who have commissions in the army, must be allowed to be placemen as well as others; and if the spirit of reducing should prevail, with respect to military placemen, our civil placemen would do well to look to themselves, for many of our civil posts may be thought as dangerous and as useless as most of our military: nay, I do not know but this spirit may at last attack our established church, by reducing all the useless ecclesiastical posts in the kingdom; in which case I do not know but it might with some reason be said, the church is in danger. It is commonly said, that two of a trade can never agree; and yet we find it is natural for all those of a trade to unite together, and to form a sort of society for their mu-

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tual support; I think we placemen ought to do the same: though we sometimes fall out about which of us shall have the better place; yet when the places themselves are attacked, we ought to unite together for supporting the craft.

I have been long conversant among soldiers, Sir, and I must say, I could never find they were less reasonable creatures, or more fond of arbitrary power, than other men; therefore I must presume, that they will always be as zealous for supporting our constitution as any other set of men in the kingdom; and, I cannot think a man's receiving pay as a soldier, will make him less zealous than he would be if he were to receive none. Therefore, I can never think our constitution will be in any danger from a regular army of our own subjects; and those who stand the brunt while their country is in danger, certainly deserve some reward after the danger has been repelled, and peace restored to their country, by their means; for I hope it will not be said, that the pay a soldier receives while the war continues, is to be looked on as a reward for his services; it is given only as a subsistence; his reward he must expect from the gratitude of his country, if he lives to see an end of the war. In kingdoms or states that have but small territories, their wars seldom last long, nor have their armies far to march, so that they can easily send out one army, or one body of men, to relieve another; therefore, their whole people march out by turns, and every man of the society has his proportionable share of the fatigue and danger of the war; for this reason, no man can expect any extraordinary reward, because no man performs any extraordinary service; but when the dominions of a kingdom or state become extensive, their wars last long, and are at such a distance, that one army cannot be sent out to relieve another; one part of the society, or one certain body of men, are therefore employed to carry on the war, while most of the rest, even during the war, enjoy all the blessings of peace; for this reason it is but just, that those who are employed as soldiers, should be subsisted during the war, and that, after peace is restored, they should receive some reward, for the extraordinary services they have performed. This has always made, and always will make, Standing Armies necessary, in all states or kingdoms, whose dominions are extensive. Therefore, to turn all soldiers adrift, as soon as by their valour they have restored peace to their country, would, in my opinion, be unjust, and, I think, I may say, the height of ingratitude. It would verify a little epigram I have heard, which I shall not repeat, because some gentlemen might think it irreligious; but the purport of it is, that our behaviour towards a soldier, is the same with that which is too often our behaviour towards God: they are both forgotten, as soon as the danger is over.

Mr. *William Pitt* spoke as follows:

Sir; If the question now before us were not an affair of too serious a nature, it would be extremely easy to be witty upon it, especially as the hon. gentleman who spoke last has given us so good a handle: but, I must confess, it seems to me of so much importance with respect to our constitution, and the happiness of our country, that I cannot, and I think no gentleman ought to make himself merry upon such an occasion; for though the preservation of our constitution were no way concerned, yet the loading of our people with an additional expence of 2 or 300,000*l.* is, in my opinion, an affair of too affecting a nature to be treated in a ludicrous manner.

As to what the hon. gentleman has been pleased to say about those he calls placemen, I shall agree that, if they were to be directed in their opinions by the places they possess, they might perhaps unite for the support of one another, against the common good of the society; but I hope none of them are under any such direction; I am sure the hon. gentleman himself is not, and therefore I am convinced he is not serious, when he talks of being surprised at any placeman's declaring for a reduction of our army; for, of all men, those who enjoy any places of profit under our government, ought to be the most cautious of loading the people with any unnecessary tax or expence; because, as the place they possess generally brings them in more than their share of all our taxes can amount to, it may be properly said, that by consenting to any article of public expence, they lay a load upon others which they themselves bear no share of.

I must look upon myself, Sir, as a placeman, as well as the hon. gentleman who spoke last: I am in the service of one of the branches of the royal family, and think it my honour to be so; but I should not think it, if I were not as free to give my opinion upon any question that hap-

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pens in this House, as I was before I had any such place; and, I believe, from the behaviour of gentlemen, upon this very occasion, it will appear, that all those who are in the same service with me, are in the same state of freedom; because I believe, they will, upon the question now before us, appear to be of different opinions. But there is another set of placemen, whose behaviour surprises me not a little; because, upon every question that occurs relating to public affairs, they are always unanimous; and I confess, it is to me a little astonishing, that 2 or 300 gentlemen should, by an unaccountable sort of unanimity, always agree in opinion upon the many different sorts of questions that occur yearly, and that not for one, but for several years together. I am convinced this surprising unanimity does not proceed from any effect of the places they have under the crown; for if it did, a man's being possessed of any place under the crown, would, in such a case, I am sure, be an infallible reason for the people not to trust him with the preservation of their liberties, or the dispensation of their properties in parliament.

Then, Sir, as to the Tories and suspected Jacobites, I am surprised to hear any comparison made between them and the fat man in the crowd: there are so few of either in the kingdom, that I am sure they can give no man an occasion for being afraid of them, and therefore there is not the least shadow of reason for saying, they are the occasion of our being obliged to keep up such a numerous Standing Army. The army, indeed, or rather those who have been the chief advocates for our keeping up such a numerous standing army, may properly be compared to the fat man in the crowd; for the keeping up of such an army is the chief cause of our discontents, and those discontents are now, we find, made the chief pretence for keeping up such a numerous army. Remove therefore but the army, or a considerable part of it, and the crowd, or the discontents you complain of, will cease. The consequences, it is true, may be fatal to some of those, who have been the causes of loading the nation so long with such an unnecessary expence; but no honest man, I am sure, will think that their safety is to be put in the balance, with the satisfaction of the people, and the safety of the nation.

I come now, Sir, to the only argument the hon. gentleman made use of, which can admit of a serious consideration; and if our army were entirely, or but generally, composed of old veterans, inured to the fatigues and the dangers of war, and such as had often ventured their lives against the enemies of their country, I confess the argument would have a great deal of weight; but considering the circumstances of our present army, I can hardly think my hon. friend was serious, when he made use of such an argument. As for the officers of the army, they are quite out of the question; for in case of a reduction, there is a handsome provision for every one of them: no man can doubt, nor would any man oppose, their being all put upon half pay; and I must observe that our half pay is better, or as good as full pay, I believe, in any other country of Europe; for in the method our army is now kept up, I could shew by calculation, that it costs the nation more than would maintain three times the number of men, either in France or Germany. And as for the soldiers, I believe it may be said of at least three fourths of them, that they never underwent any fatigue except that of a review, nor were ever exposed to any danger except in apprehending smugglers or dispersing mobs; therefore I must think they have no claim for any greater reward than the pay they have already received, nor should I think we were guilty of the least ingratitude, if they were all turned adrift to-morrow morning.

But suppose, Sir, the soldiers of our army were all such as had served a campaign or two against a public enemy; is it from hence to be inferred, that they must for ever after live idly, and be maintained at the expence of their country, and that in such a manner, as to be dangerous to the liberties of their country? At this rate, if a man has but once ventured his life in the service of his country, he must for ever after be not only a burthen, but a terror to his country. This, Sir, would be a sort of reward, which I am sure no brave soldier would accept of, nor any honest one desire. That we should shew a proper gratitude to those who have ventured their lives in the service of their country, is what I shall readily acknowledge; but this gratitude ought to be shewn in such a way, as not to be dangerous to the liberties, nor too burthensome to the people of our country; and therefore, after a war is at an end, if a soldier can provide for himself, either by his labour, or by means of his own private fortune, he ought not to expect, and, if

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he is not of a mercenary disposition, he will scorn to receive any other reward, than that which consists in the peculiar honours and privileges that may and ought to be conferred upon him, by the established laws of his country.

That we ought to shew a proper gratitude, that we ought to give a proper regard to every man, who has ventured his life in the cause of his country, is what I am sure no gentleman will deny: but when I have said this, Sir, I cannot help observing how defective our laws and customs are in this respect. Is not this an unanswerable argument for establishing this gratitude, and ascertaining this reward, by a public law? Yet as the laws now stand, an old officer, a man who has often ventured his life, and often spilt his blood, in the service of his country, may be dismissed, and reduced, perhaps, to a starving condition, at the arbitrary will and pleasure, perhaps at the whim of a favourite minister; so that by the present establishment of our army, the reward of a soldier seems not to depend upon the services done to his country, but upon the services he does to those who happen to be the favourite ministers at the time. Must not this, Sir, be allowed to be a defect in the present establishment of our army? And yet when a law was proposed for removing this defect, we may remember what reception it met with, even from those who now insist so highly upon the gratitude we ought to shew to the gentlemen of our army.

The question being put, the motion was rejected: Noes 249, Yeas, 164. So the Resolution was agreed to.

Debate in the Commons on a Petition for the Repair of the Collegiate Church of Westminster.] Feb. 16. Lord Sundon acquainted the Commons, that he had a Petition in his hand from the dean and chapter of Westminster. Upon which he opened the nature of the Petition, and sir Robert Walpole, by his Majesty's command, acquainted the House, that his Majesty being informed of the contents of the said Petition, recommended it to their consideration.

Then the said Petition was brought up and read, setting forth, "That said Collegiate Church came into the hands of the first dean and chapter unfinished, and by length of time and badness of the materials, became so ruinous, that in the 8th and 9th of William 3, in regard to its being of ancient and royal foundation, an annual sum for a certain term of years, was granted by parliament for repairing the same, under the direction of the Chancellor of the Exchequer, the Lord Chief Justice of the King's-Bench, and the dean of Westminster, who were appointed commissioners for that purpose: and that by an act passed in the 9th of queen Anne, a sum of 4,000*l.* per annum for a certain term of years was granted to the said commissioners, towards repairing and finishing the said collegiate church and the chapels of the same; and that in order to the finishing it, as directed by parliament, sir Christopher Wren, then the surveyor, formed the design of erecting a spire in the middle tower, a model of which he then prepared, and a draught of which, with the rest of the intended building, was laid before this House, the last session of parliament; and that by acts passed in the 6th, 7th, 8th, and 10th, of his present Majesty, the several sums of 4,000*l.* each year, have been issued and applied towards carrying on the said works: and an account how the same has been expended, has been annually laid before this House, and that all the monies granted as aforesaid being expended, the said works are now at a stand, which the Petitioners submit to the consideration of this House, acknowledging the favours already conferred on the said Collegiate Church, as well by the present as by the former parliaments, and praying for the continuance thereof."

After which lord Sundon moved, That the said Petition be referred to the consideration of the committee of the whole House, to whom it was referred to consider further of the supply granted to his Majesty. He was seconded by sir William Yonge, and then

Sir *Thomas Aston* spoke thus:

Sir; I remember a story that was told of a great favourite of king Charles the 2nd. This gentleman, who was a true cavalier, fought for the father, and was banished with the son, whom he attended all the time of his exile. Upon the restoration of the royal family he still continued to follow his master's fortune, but never minded his own; until his continual attendance at court, his giving into all the fashionable expences of the times, and the figure which his intimacy with his Majesty obliged him to support, at last exhausted every shilling of his estate. But such was the gentleman's modesty, (a virtue, you will say,

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very rarely to be met with in the favourite of a monarch) that he never made one solicitation in his own behalf, though he had many opportunities of doing it. At last the king, being informed of his circumstances, took occasion one day, as the gentleman was soliciting a post for one of his friends, to tell him, "Sir, says he, you have been a very faithful and a very constant servant to me; I have had great satisfaction in your company without your being a shilling the better for me, though I am persuaded your estate has suffered considerably in my service. As you are a man of sense, and fit for business, why do you not ask something for yourself?" The gentleman made no other return to his Majesty at that time but a profound acknowledgment of the honour he had received, by his Majesty's being so mindful of him; but some time after, being all alone with the king; Pray, Sir, says he to his Majesty, be so good as to lend me half a crown. Half a crown! answers the king, what do you mean? if you have occasion for a larger sum, you may have it. No, no, replies the gentleman, this small piece does very well to begin with; for I have often observed, that once put you in the way of giving, it is easy to keep you in it, and then you do not care how much you give.—Though this story, Sir, especially as to the modesty of the petitioner, may not in every respect be parallel to the case now before us; yet I think there is something in the giving humour of the monarch pretty applicable to our conduct on former occasions of this nature. The sum, Sir, that was originally asked for, and granted, for purposes mentioned in this Petition, could have made no great figure in the public accounts, had we stopt there; but an accumulation of that sum, Sir, from time to time, obtained when we were in the giving humour, would make, I think, no despicable article, if applied towards the discharge of some part of the national debt. Therefore, Sir, I think we should rather stop now than later; and I hope this Petition will lie upon the table.

Mr. *Worsley* spoke to the following effect:

Sir; Though I have a most profound respect for the dean and chapter, and should be glad to see our churches make a figure becoming the grandeur of his Majesty and this nation; yet, I own, I cannot approve that the disposal of the parliament's bounty for that purpose should be intirely in the hands of the clergy. I do not speak this as if they were capable of misapplying any part of it; but merely from my having so great a respect for that venerable body, that I am unwilling they should be burdened with any other cares besides those of their function, which are many and weighty. I am therefore, Sir, surprised that the honourable person who brought up the Petition, should appear so pressing for us to grant it; since it is certain we cannot do it without putting these good men to very great trouble. The overseeing of a work, Sir, that costs 4,000*l.* every year, takes up no small part of a man's time; and though some laymen are joined in the commission for managing this bounty, yet we know the fatigue of it is intirely left to the reverend clergy. Now, Sir, this is an injustice done not only to them but to the laity also, who must suffer greatly by their spiritual guides having so many avocations from the duties of their functions; besides, Sir, we are to consider, that the way of life in which these reverend persons have been educated, gives them no opportunity of knowing the prices and materials of working men, or of forming a right judgment upon the sufficiency of their work; both which are very necessary qualifications in the overseers of a business of this nature: so that I dare say, Sir, the reverend gentlemen will think themselves highly obliged to this House if we should ease them of that trouble; and this upon a double account. First, as they will have more leisure for looking after their spiritual concerns, which, to such disinterested good men as they are, is a most invaluable blessing; and secondly, as we can put the inspection of the work into hands who will take care to have it done to the best advantage, and at the least expence. Therefore, Sir, I am for letting this Petition lie upon the table till a lay commission for overseeing the execution of the work is made out.

Sir *Robert Walpole* said next:

Sir; I am entirely of the hon. gentleman's mind who spoke first, in thinking that more money has been expended upon the desire of this petition than perhaps the parliament expected when they made the first grant for this purpose. But that, Sir, is the very reason, why, in my opinion, we ought to agree to the petition; for it would be very absurd in us, after the great expence the nation has been at on this account, if we should leave the work unfi-

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nished to save a trifling sum. The reasons that induced the parliament at first, Sir, to promote and encourage the design of repairing and finishing this church, were such as were worthy so august a body. Should we let the church where the bodies of our greatest princes are deposited, and which lately received the remains of a Princess whose memory must be ever dear to Britain, be the only church in the whole kingdom not properly provided for, we should justly expose ourselves to the censure of the rest of Europe, and of every stranger who visits us. The expence therefore which the desire of this Petition requires, is an expence we ought to be at for our own honour, for the honour of the nation, and let me add, for the honour of the royal family. These, and no other, are the motives, Sir, that incline me to give my vote for our granting the petition, and I am persuaded gentlemen will easily concur, when they compare the reasonableness of the thing to the smallness of the expence.—As to what was urged by the hon. gentleman who spoke last, in that the inspection of the work ought to be committed to laymen, I seriously own that I was once of his opinion, and I remember one year that the experiment was actually made. But at the same time I remember, that when the accounts were examined, and the work surveyed, it was found that we neither had managed so frugally, nor was the work so well executed, as when it was under the inspection of the clergy. Besides that, Sir, the commissioners being men who had a great deal of other business to mind, seldom thought it worth their while to meet, and to concert measures for the more effectual carrying on this work, which by these means was neglected, and it must still suffer if we shall put it under the inspection of laymen intirely. For, Sir, though we should suppose that they had it at heart to carry the work on in the most frugal manner: yet every one will trust to another, till the whole is neglected. But, Sir, when we leave the commission in the hands of the clergy, they think it their duty, they make it their business, they take a pleasure, I may say, a pride, in seeing it carried on to the best advantage. As to the honourable gentleman's fears of its being too great a burden, to those reverend gentlemen, if they do not esteem it such, I see no reason that we should. The clergy is very seldom oppressed without complaining; and I dare say we never should have been troubled with the petition, if our granting it must be attended with any inconvenience to the petitioners. We are to consider, Sir, that the situation of the clergy who attend this church, is different from that of those who have the charge of whole parishes on their hands; the petitioners have time and leisure enough to spare; and give me leave to say, Sir, it is a part of their office to take all the care they can both of the reparations and the additions which are made to that church by which they live. Therefore, Sir, I am for referring the Petition to the committee of Supply, and for making no alteration in the commission.

Mr. *George Heathcote* spoke next as follows:

Sir; I do not think that in the present state of our public credit, and while the people are already overwhelmed with taxes, that we ought to agree to the giving away one shilling of their money on any occasion but where it is absolutely necessary. The sum required of us by the petition, is not indeed a very large one; but small as it is, we are to consider that it comes out of the people's pockets, and the purposes for which it is granted can be of very little, if any benefit to them. I cannot pretend to account for the motives that induced the parliament to lay out so much of the public money in adorning and repairing a church; but whatever these motives were, I think they ought to have no influence with us, because in those days, Sir, the people could bear to save a little money on an occasion of this kind, their taxes being neither so heavy, nor their debts so large, as they are now. The right hon. gentleman who spoke last, gave indeed one reason, which he supposed influenced the parliament on this occasion; and that was, because many of our Kings lie buried in that church. This reason, Sir, would have come with a better grace from that right hon. gentleman, could he have added at the same time, that all the Kings there interred were friends to the liberties of the people.—Besides, Sir, I do not like these annual petitions; they look somewhat like annual Bills. By indulging the petitioners from year to year, they may at last come to claim it as a kind of right, and never give it over. Let gentlemen consider, Sir, how easy it is for them to prepare a model of new additions to this church, under pretence that they are necessary, and that we cannot do too much for adorning and repairing such an august

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royal fabric. The reasons, Sir, for our granting the desire of this petition would then be just as good 30 years hence as they are now; and according to the right hon. gentleman's way of reasoning who spoke last, much better; for it seems the more we grant, the less we ought to refuse. Therefore, Sir, I should have been much better pleased, and should have thought it a much fairer way of proceeding, had the petitioners, instead of asking the annual bounty of 4,000*l.* petitioned at once for as much as, in the opinion of competent judges, will be sufficient to complete the work according to the present model. This, Sir, would havebeen a fair way of acting; we should have then known what we were about, and we could have granted it in what proportions and at what times we found most convenient: whereas, what we do now is in the dark; we know not when the work will be finished: and unless it is finished, all that we shall grant now is to no purpose. For this reason, Sir, I think it would be extremely proper, before we proceed any further in this affair, that the petitioners should lay before the House an estimate of the expences that the reparations and additions to the church will cost in the whole.

Lord *Sundon* answered:

Sir; What the hon. gentleman who spoke last proposed, indeed appears very reasonable; but I do not think it very practicable. Every gentleman who has experience in building, knows very well how hard a matter it is to calculate the expences he must be at, though perhaps he has a great part of the materials upon his own land; but it is much harder to do it in a work of this kind, that is subject to many accidents, that requires such a variety of workmen of all kinds, and where all the materials must be purchased from different hands and at different prices. However, Sir, I have heard that subject talked of, and have made it my business to enquire how much the whole may cost. And Sir, though I never could certainly be informed, nor have any authority from the petitioners to say any thing on this head; yet, by the nearest computation I can make, it may cost about 13,000*l.* more, which, I hope, Sir, is a sum we may spare, without laying any great burden on the people.

Mr. *Joseph Danvers* spoke next:

Sir: The business of half my life has been to pull down and build up an old house, and had I known how much it would have cost me when I first began to build and repair it, it should have gone to ruin before I had spent a shilling on it. So that, Sir, I intirely agree with the noble lord who spoke last, in thinking it impracticable to determine the exact sum that this work may require. Had I, Sir, foreseen that the repairs of this old house of mine would have cost me more money than the building a new one, does any gentleman imagine that I would not rather have set about the one than the other? Therefore, Sir, I think it is of no consequence to us to have any estimate laid before us, because it is impossible we can have a just one; and while we grant the petition from year to year, the managers will be the better husbands of what money comes to their hands, and the work will be carried on to more advantage, in order to encourage us to grant more.

Mr. *Watkin Wynn* spoke next:

Sir; I am for letting the petition lie upon the table, and for doing nothing in the affair this year, were it for no other reason but to put the petitioners in mind, that we may grant or refuse this money just as we please. For, Sir, if this Bill should pass in course every session, the reverend petitioners may claim that as a right which is now only an indulgence.

Sir *William Yonge* replied:

Sir; I believe, Sir, that there is no civilized nation in the world, that does not look upon the repairing and improving those works which their ancestors or their princes left as monuments, either of their piety or their grandeur, to be a public concern. Former parliaments, Sir, in this nation, seem to have been of opinion that no work more deserved the regard of the public than Westminster Abbey, which I look upon to be the finest thing in this nation; and it would give foreigners a very odd notion of our politeness, and of our gratitude to the memory of our princes, if we should let it stand in its present condition, especially as so small a sum is required to finish it. For, Sir, I dare say the noble lord was right in his conjecture, that it will not require above 13 or 14,000*l.* more; and when it is completed, I will be bold to affirm, that it will excel any thing of its kind in Europe. Gentlemen may remember what an expence the nation was put to by our voting fifty new

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churches to be built. But, Sir, in my opinion, it is as worthy the dignity of this House to preserve and adorn this old church, as it was to build fifty new ones. Give me leave likewise to say, Sir, that this petition would not have met with half the opposition it has, had it been offered for the reparation of any building but a church.

As to the fears the hon. gentleman who spoke last is under, lest the petitioners should claim that in time as a right which is now only an indulgence, I think the parliament fully answered that objection two or three years ago; for I remember, Sir, that when this Petition was presented, the parliament thought fit to reject it. Another hon. gentleman seemed to apprehend that further additions would be made to the fabric, and such as might involve us in unforeseen expences. We have all, Sir, seen the model of the building that is designed, and we can never imagine that the reverend overseers of the work will make any additions to that model, without the approbation of this House. And if no additions are made to the model I see no reason for our apprehending that we shall be put to any extraordinary expence. The money that has already been granted for this effect, has been duly accounted for by the Petitioners, and I never have yet heard that any objections were made to their accounts; on the contrary, I have heard it often affirmed, that the money that has been granted was managed in the most frugal manner, and to the best advantage. When we find that it is not so, it will be time enough then to put the management of the work into other hands, or to withdraw our bounty entirely. These considerations, Sir, are, I think, more than sufficient to determine us to come to a resolution upon the motion made by the noble lord who brought up the Petition; but there is another consideration that I hope will always have its weight with this House, and that, Sir, is, his Majesty's recommendation. I think, Sir, it will be treating his Majesty with disrespect, if we should have no regard to his recommendation in an affair that can cost us so very little, and which, though it did not come so strongly recommended, is in itself so highly reasonable.

The question was put, That the petition be referred to the consideration of the committee of supply? A division followed, and the question passed in the affirmative. Yeas 174. Noes 61.

Immediately after this question was over,

Mr. *George Heathcote* spoke as follows:

Sir; As I think that on all hands it has been agreed that it is the interest of the reverend petitioners that Westminster-abbey should be finished and repaired according to the draught of the model laid before this House last session, and as very great encomiums have been made upon their integrity as well as good management, I think it would be very proper for us to enquire whether or not some part of the revenues annexed by the royal founders to the Abbey, have not been allotted for the expences of the fabric. This, in my opinion, will have a very good effect. 1st, it will give us an opportunity of doing justice to the integrity of the reverend petitioners. 2dly, it will be of great use to gentlemen when this affair comes to be settled in the Committee. Besides, Sir, though it should appear from the enquiry that no such allotment has been made, I think gentlemen ought to make themselves judges how far it is reasonable, that some part of the large revenues enjoyed by the reverend dean and chapter, ought to be set apart for these purposes. This, Sir, I think is extremely proper, especially as nobody makes a shilling by the fabric besides themselves. I likewise do not doubt, Sir, but that it will appear in the course of this enquiry, that many of the clergy have expended large sums out of their own revenues upon the reparations and the additions of the fabric. Therefore, Sir, I humbly move, "That the dean and chapter of Westminster prepare an estimate of the revenues belonging to the dean of the church, distinguishing the several appropriations."

Sir *Robert Walpole* replied:

Sir; I own this is the most extraordinary motion I ever heard in this House. I should be glad to know how the hon. gentleman would take it, if he should be required to lay before this House a particular inventory of his own estate, that he may receive directions from the House in what manner he is to apply it: I believe the hon. gentleman would think it a very unjustifiable way of proceeding; and give me leave to say, Sir, that if such a proceeding is unjustifiable in cases of private property, it is much more so where a body of men upon a foundation, and a royal foundation too, is concerned. Nor can I

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see, Sir, how we can agree to to this motion without violating all the rules of common justice, and shaking the foundations of all property. Besides, Sir, the honourable gentleman does not reflect, that we are no court of record, and therefore cannot oblige the petitioners to exhibit their rights to these possessions before us. So that it is not really in our power to come to any resolution upon this motion. And Sir, should we make a stretch in this case, I should be very sorry to sit in this House while we came to a resolution, that might give the world reason to think, that we designed to carry our power farther than our justice. There may, indeed, some particular cases come before us, in which it is necessary, that one of the parties explain or prove his right of possession; but this, though it seldom happens, is always done voluntarily by that party, that the House may more clearly comprehend this case. And, Sir, I believe the hon. gentleman cannot find one precedent where this House obliged a party to submit to our judgment the papers and securities by which he or they enjoy their estates or income. We have no reason to doubt, Sir, that the clergy have as good a right by law to what they enjoy as any of us have to our private estates: nor do I think that either justice or reason oblige them to lay out any part of their income upon repairing the church, or upon these alterations or additions. As for their living by the church, all the clergy throughout the kingdom live by their churches; yet, Sir, that is no reason that each of them should be at the expence of repairing his respective church. So that, I hope, Sir, when gentlemen consider the consequence of this motion, they will let it drop. I dare say, no gentleman suspects that I oppose it from any other motives than the principles of common equity, which are always agreeable to the maxims of good policy. There was, indeed, a time, when this House, and the legislature in general, had reason to be jealous of every concession in favour of the clergy; but, Sir, that set of clergy is almost extinct, and the principles and actions which once gave us very good grounds for such a jealousy, are now almost entirely worn out. And as their successors behave with that submission and regard for the government that becomes their character, I think, Sir, they deserve the protection and indulgence of parliament. I believe it cannot be pretended by gentlemen, that since I had the honour to be concerned in the administration, the clergy have met with any extraordinary indulgence from the government, or that any of the high-flyers amongst them have been encouraged. But, Sir, I must own, that a petition from the clergy, if they act as ministers of peace, and if the petition is reasonable in itself, will never be less agreeable to me because it is in favour of the clergy. I should not have troubled the House about an affair which I think has taken up but too much of our time already, had I not perceived an unusual spirit of opposition to this petition, from gentlemen whom, by their former conduct, I never suspected as enemies to the clergy, even in the most exorbitant claims, and their most exalted Tory principles.

Mr. *Pulteney* said:

Sir; I am sorry that I am obliged on this occasion to differ from the hon. gentleman who made the motion; but glad of having one opportunity of speaking on the same side of the question with my right hon. friend who sits by me. It is certain, Sir, that it would be a very unprecedented thing in us, so much as to pretend to make any alteration in the funds appointed for the maintenance of the dean and chapter. It is likewise certain, Sir, that we cannot compel them to make any contribution out of their private emoluments, towards repairing or finishing the church. A great many reasons, Sir, induce me to be of opinion that the revenues of the church cannot be better disposed of than they already are; and one among the rest, Sir, is, that the right venerable bishop is ground-landlord to several very convenient lodgings there, extremely proper, as they are so near the Parliament House, for his brethren to live in. So that their country, Sir, is sure, on every pinch, and upon the shortest warning, of their immediate attendance in the parliament. But, Sir, though I think we have no right to oblige them to comply with the terms of this motion, yet there are certain revenues which arise from the pavement and the walls of the Abbey. These emoluments, Sir, I think we have a just title to enquire after, as the money we grant is for the support of the fabric; and, Sir, I think they ought to be laid before us. I should have been very well pleased to have complied with the hon. gentleman's motion, if the sum petitioned for were to be applied for the support of the clergy. But as that is not

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the case, Sir, I beg leave humbly to move, That the dean and chapter of the collegiate church of St. Peter Westminster do lay before this House an account of what money has been received by them for seven years last past, for breaking up ground in the said church or places adjacent, for burials, and for erecting monuments there, and how the said money has been applied by them towards the repairs and finishing of the said church and edifices thereunto belonging, for seven years last past.

The said Account was accordingly agreed to.

*Debate in the Lords on the Reduction of the Army.**] March 9. The Mutiny Bill was read a second time in the House of Lords, and was committed for the Tuesday following without any debate; but as soon as it was ordered to be committed,

Lord *Carteret* stood up, and spoke in substance as follows:

My Lords; When any question happens in this House, which depends upon facts or circumstances, we are not to judge from common reports or surmises: in all such cases we ought to be determined by nothing but parliamentary knowledge; which knowledge must be communicated to us as a House of Parliament, and by some proper authority. The question now before us, is a question of this nature. It is a question which must depend upon facts or circumstances; for, I hope, no man will, as yet, dare to say, that a Standing Army of 18,000 men, is a part of our constitution; and, that the keeping up of such a number ought always to be agreed to by this House, without our asking for, or being able to assign a reason for so doing. By the established maxims of this kingdom, by what ought to be an established maxim in every free country, a numerous Standing Army is never to be kept up, nor ought this House ever to agree to the keeping up of such a one, without some necessity for our being obliged to submit to such a dangerous expedient; and as that necessity can proceed from nothing but our circumstances, either abroad or at home, before we agree to the keeping up of such an army, an account of those circumstances ought to be communicated to us in a parliamentary way.

The nation, my Lords, may sometimes be in danger of being attacked by a foreign enemy, or our government may be in danger of being overturned by a powerful and seditious faction at home; and sometimes we may be so unfortunate as to be exposed to both these dangers at once. When any of these happen to be our case, we are to give our consent to the keeping up of a body of regular troops; and, their number ought always to be in proportion to the power of that foreign enemy, or domestic faction, from which we have, at that time, reason to apprehend mischief. But, in all such cases, we are not to allow apprehensions to take their rise from public gazettes and hackney news-papers, or from the private information that may be whispered by one lord to another. We have a right to be fully informed of the circumstances which the nation may then happen to be in, and till that information is laid before us in a proper way, we ought not to load the people with the expence, or expose our liberties to the danger of keeping up a numerous standing army.

Upon this occasion, my Lords, I have done my duty, I have done what every member of this House ought to do, I have carefully perused his Majesty's Speech from the throne, at the beginning of the session; and upon that perusal, I had the pleasure to see, that it did not contain so much as the least intimation of danger. I believe it is one of the shortest and most general, that ever came from the throne; and, as I have great confidence in his Majesty's wisdom, penetration, and foresight, I must from thence conclude, we are at present in such a happy situation, as not to be under the least apprehension of being disturbed either by foreign or domestic enemies. I have gone farther, my Lords, I have carefully examined our journals for this session, and upon that examination, I had the satisfaction to find, that there is no message, nor any answer from the crown, which can give us the least ground to believe we are now in any danger. As these, my Lords, are the only methods I can think of, by which a parliamentary knowledge of our being in dangerous circumstances can be communicated to us, I must think it inconsistent with the dignity of this House to presume, from any information we have had from public newspapers or private whispers, that we are in such circumstances; and without such a presumption, no member of this House can agree to the keeping up of a standing

* The whole of this debate is taken from the London Magazine.

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army of 18,000 men, unless he thinks, that such an army ought to be kept up, even when the nation is in the greatest tranquillity and security; which is a way of thinking no member of this House, nor any British subject, will ever, I hope, fall into; for if this should ever come to be established as a maxim, a standing army of 18,000 men at least would become a part of our constitution.

But now suppose, my Lords, that we were upon the present question, to determine ourselves from common reports and surmises, or from public gazettes and hackney newspapers, yet even from them, I think, we must conclude, that we can never be in a state of more absolute security than we are at present. Let us examine the present state and seeming inclinations of all the powers of Europe, and we must presume, that the tranquillity, either of this nation or of Europe, is not in the least danger of bding disturbed for some years to come. Our neighbours the French, my Lords, seem of late to have entirely changed their conduct. Their ambitious views of being able to give laws to Europe, may still be the same; but they have of late endeavoured to aspire to it, by very different methods from what they formerly made use of. Instead of warlike measures, and violent and rapid conquests, they are following the arts of peace: they are easing their people of taxes, encouraging trade and commerce, setting up and improving their manufactures, establishing and extending their colonies and plantations, both in the East and West-Indies, and cultivating a spirit of industry and frugality in every part of their dominions. This is a method more slow, but, in my opinion, more certain, than that they formerly pursued. It is a method so certain, that I am convinced, they will soon arrive at the end they have in view, unless their neighbours, and particularly we of this nation, take care to follow the same measures. They are now so careful not to raise the jealousy of their neighbours, that in the last war they were engaged in against the emperor, though they were every where victorious and successful, though there seemed to be nothing to obstruct the progress of their arms, yet of themselves they set bounds to their ambition, and were satisfied with adding but one province to their dominions, lest by aiming at more, they had awakened the other powers of Europe, who then seemed to be all asleep, I say asleep, my Lords; for though that province was but inconsiderable, when compared with the conquests they might have made, if none of the other powers of Europe had joined the emperor against them; yet, as the French dominions were before too large, as their power was before that conquest greater than is consistent with the balance of power in Europe, it was a conquest they would not have aimed at, if those who ought to be the guardians of that balance, had been as watchful as they ought to have been, and had taken proper measures for preventing an addition to that power, which, before that acquisition, was more than a match for any one of its neighbours upon the continent.

These measures, my Lords, the French have been led into by a minister, who, by his wisdom and conduct, has united with the dignity and authority of his character, the affection and esteem of the people; and what is most extraordinary, he has gained the affections and esteem of the people, by pursuing measures which were contrary to their genius and inclinations, and contrary to those notions of glory and renown, which had been inculcated into them, during the late and long reign of Lewis 14. He has never threatened war, while he was cringingly suing for peace; nor has he put his country to the expence of formidable armaments, at a time when he was resolved to tye up their hands by peaceable instructions. On the contrary, when he found himself under a necessity of going to war, he began the attack, before his enemies had a suspicion of the danger; and he put an end to the war, as soon as he could obtain a sufficient compensation for his own country, and a proper satisfaction for those who were its allies. From the whole of his conduct it appears that he is not ambitious of making great conquests, nor desirous of going to war; therefore while he continues prime minister, we have no reason to apprehend an attack or invasion from France; and as it is not our interest to engage in war, as we never ought to engage in any war but through necessity or for self preservation, I cannot think we have at present a view of attacking the kingdom of France, or any other kingdom or state of Europe.

I know, my Lords, it may be objected, that as the minister who has now the direction of public affairs in France, is of a great age, we can put no trust in that security which depends upon his life. It may be said, that by the course of nature,

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his life, or his capacity for business, can be of no long continuance; and as he may be succeeded by a minister of an ambitious, enterprising spirit, we ought to provide against the worst, and, therefore ought to keep up such a standing army as may be sufficient for repelling any attack. This, my Lords, is an objection which will always be as good as it is at present, against our reducing any part of our army. A young minister may die as well as an old, and a young minister is more apt to change his measures, or to engage in ambitious designs, than an old one can be supposed to be; therefore, if this be now a good objection against our making a reduction, it must always be so; consequently a standing army of at least 18,000 men must be entailed upon us for ever, and so become a part of our constitution. But suppose the present prime minister of France should die, or should resign his employments, before next session of parliament, he has acquired so much glory, and that kingdom has reaped so great and so apparent benefits, from the peaceable measures he has pursued, that his successor must be not only a man of an ambitious and enterprizing genius, but also a man of no great wisdom, if he does not follow the same measures; and suppose he should not, suppose him as ambitious, or as great a fool as any minister that ever directed the affairs of that or any other kingdom, it will require some time before he can fix himself in power, and till he has fixed himself, he will not, he dare not attempt to disturb the repose of any of his neighbours; so that, with respect to France, supposing the worst that can happen, we have no reason to apprehend an attack, or any disturbance from that quarter before next session of parliament; and in the next session we may again encrease the number of our forces, if the circumstances of the nation then seem to require it.

Our neighbours the Dutch, my Lords, can have no inclination to disturb the present happy tranquillity of Europe; and they seem to be so well assured of its not being in danger of being disturbed by any ther power, that they have not now such a number of forces in their pay as they ought to keep up for guarding their own frontiers, and for fulfilling the stipulations they have entered into with their neighbours. Then with regard to the Emperor, he is, we know, already engaged in a war with the Turks, and in that war he has, as yet, met with so little success, that we cannot suppose he will attack any of his neighbours on this side, while that war continues; nor can we suppose he would have engaged in that war, if he had not been fully assured of the pacific disposition of the court of France; and the event has shewn, that his assurance was not without good foundation; for the court of France, instead of taking advantage of the war the Emperor is engaged in against the Turks, are now employing their good offices for putting an end to that war. This shews the harmony that at present subsists between the houses of Austria and Bourbon; and as the contention between these two Houses has been the chief cause of most of the wars that have lately happened in Europe, I see no reason to apprehend that the present tranquillity can be disturbed, as long as that harmony subsists.

The two northern powers, my Lords, seem both at present more intent upon the improvement of their trade and navigation, than upon disturbing the tranquillity of one another, or of any of their neighbours; and the Muscovites, notwithstanding their late success against the Turks, have their hands so full upon that side, that there is not the least danger of their attacking any of their neighbours upon this. Here likewise we have a fresh instance of the pacific inclinations of the court of France; for though their favourite point in Poland had been defeated, and his most Christian majesty's own father-in-law drove out of that kingdom, by the successful arms of Russia, yet the court of France offered their mediation for bringing about a peace between the Russians and Turks, and the Russians, with more than Russian policy, accepted of that mediation.

The peace of Italy, my Lords, seems to be insured not only by the present circumstances of the several princes thereof, but by the guaranty of the king of France; a guaranty which is sufficient for overawing the ambitious views of any prince or potentate in Italy, and a guaranty which his most Christian majesty will, I believe, for his own honour, as well as for the interest of his kingdom, take care to observe more faithfully than some guaranties have been of late years observed.

I have now, I think, shewn, my Lords, that with respect to the tranquillity of this kingdom in particular, or of Europe in general, there is not the least disturbance to be apprehended from any prince or potentate

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in Europe, unless it proceeds from Spain or Portugal; and that neither of these kingdoms will attack the other, I think, we are at present as certain of, as we can be of any future event whatsoever. As Portugal is not by itself a match for Spain, there is not the least danger that the latter will be attacked by the former; and as Spain must have been convinced, by the late conduct both of France and of this nation, that they will not be allowed to execute any ambitious designs they may have against Portugal, there is reason to presume they have, for some years at least, laid such designs entirely aside; therefore, we have no ground to think, that either of these kingdoms will attack the other; and this nation surely can never be in dread of an attack, much less an invasion from Portugal; for though the Portuguese should be so mad as to imagine themselves an equal match for this nation, yet the seasonable assistance we lately sent them, when they were in danger of being swallowed up by Spain, must have laid them under such obligations, that it cannot be supposed they will attack us for a slight cause, or in a short time; and their own safety will always, in my opinion, prevent their falling out with us: because they must be sensible, that the moment they do so, they lose the only safeguard they can depend on, for preventing their being conquered, and made a prey of by their inveterate enemies the Spaniards.

The interest and inclinations of the Spanish court, with respect to its neighbours, and with regard to us, remain now, my Lords, only to be considered. With regard to France, whatever the interests of the Spanish nation may be, I am sure it cannot, and I am sorry it cannot be supposed, that the court of Spain have at present an inclination to have any misunderstanding with the court of France; but suppose they had, and that a war should break out between these two nations, I hope it is not to be presumed, that we would take the part of France against Spain; and, considering that some years ago we refused to be the sole mediator of the differences then subsisting between the courts of Madrid and Vienna, only for fear of disobliging the court of France, though we might have thereby had an opportunity of detaching Spain entirely from a dependence upon, or a confidence in the court of France, I think it is to be presumed, that the same persons would still entertain the same fears, and would therefore refuse to join with Spain in a war against France, however much the interest of Europe in general, however much the interest of this nation in particular might plead for such a conjunction. There is therefore no reason to apprehend, that Spain will disturb the present tranquillity by attacking France, or that we would be engaged in the quarrel, if it should; and as for Spain's attacking the emperor, or any of the other princes or states, who have dominions in Italy, we can have no reason to apprehend any such thing, as long as France stands engaged to guaranty those dominions, and seems resolved to observe and perform that engagement.

In the last place, my Lords, let us consider the interests and inclinations of the court of Spain with regard to this nation in particular. What the inclinations of the court of Spain may be, I shall not pretend to determine; but I am sure, it is against the interest of that nation to have any misunderstanding with this; and therefore till I am informed of the contrary by a proper authority, I must presume, that the court of Spain have at present no design against the peace of this kingdom. Their Guarda Costas in America have, it is true, been guilty of many piratical practices of late years, and by such practices have insulted the honour, as well as injured the trade of this nation; but I cannot think, that any of those practices were authorized by the court of Spain. We know, that many of these Guarda Costas are ships fitted out by private men, who receive commissions from the Spanish governors in that part of the world, to guard their coasts, and to seize all ships and vessels they find concerned in illicit trade. The crews of such Guarda Costas are usually composed of fellows who serve, no purchase no pay; and when these fellows can meet with no lawful prize, necessity compels them to act like free-booters: they seize the first ship they can make themselves masters of, and then swear they found her carrying on an illicit trade upon their coasts. By such fellows many of our merchant ships have been, I believe, unjustly seized; but I am convinced, that, upon our application, many of these fellows have been already hung up at the yard's arm, and that every one of them will be so served, as soon as he is detected, and the fact fully proved. Nay, if it should be found, that any of the Spanish governors in the West-Indies have winked at such practices, or have gone shares in the spoil, which may be the

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case, I am convinced they would, upon our application, be called home by the court of Spain, and would there meet with an exemplary punishment.

This, my Lords, I am fully convinced of, because, I find, our ministers still keep a correspondence with the court of Spain, and are now carrying on a negotiation with that court, in order to concert proper measures for preventing such practices in time to come; for if the court of Spain had in the least appeared to have countenanced such practices, or if that court had refused, or unreasonably delayed to inflict condign punishment upon any one of the offenders, after the crime had been fully proved against him, I am sure no minister of Great Britain would have dared to keep a correspondence, or to carry on any sort of negotiation, with a court that had offered such an indignity to his king, and such an insult to his country.

Peace, my Lords, is a desirable thing for any nation, especially a trading nation; but, whoever thinks that a peace ought to be purchased at the expence of the honour of his country, will, at last, find himself egregiously mistaken. By the custom of all nations, and all ages, when an apparent, and real affront has been put upon one nation by another, the injured nation ought to make a peremptory demand of redress, and if it is not granted upon the very first demand, they ought to break off all further correspondence, and immediately begin hostilities. If they submit to a negotiation after such a refusal, they may, at last, obtain a nominal peace, but it comes attended with contempt; and a nation that is contemned, can never expect a cessation of hostilities.

For this reason, my Lords, I cannot entertain so bad an opinion of those who have, at present, the honour to be concerned in our administration, as to imagine, that the court of Spain have in the least countenanced the piratical practices of some of their subjects in America, or that they have refused to do justice upon any one of the offenders: but, suppose they should do so before next session of parliament; for, as I have said, it is impossible to suppose they have yet done so; I shall grant, we should in such a case, be under an immediate necessity of declaring war against that nation; but, in such a war, what can we have to do with a land-army? What occasion can we have for keeping up an additional number of troops on account of such a war? Every gentleman must know, that it would be ridiculous in us, to attempt to invade Old Spain, with such a land-force, as would be sufficient to make any conquest there; and, though we should make a reduction of 6,000, we could spare a sufficient number of land-forces, for infesting and making inroads upon their coasts. Can any gentleman suppose, that Spain would attempt to invade this nation? They know, by experience, the precariousness of all such attempts; and, the formidable navy, which this very session of parliament has enabled his Majesty to fit out, must make it ridiculous in them, to think of any such attempt. The number of seamen, that are already provided for the service of the ensuing year, will enable his Majesty to send out several squadrons of men of war, every one of which will be superior to any naval force the Spaniards can send against them. With these squadrons we may protect our trade and our dominions, and at the same time, so much annoy the coasts of our enemies, that they will soon be forced to sue for an accommodation. It is by means of our navy only, that we can pretend to force Spain to a compliance with our just demands; and, therefore, if we are in danger of being involved in a war with that nation, we ought to reduce our army, that we may with the more ease augment our navy.

This was the method, my Lords, by which his late Majesty managed the war he was engaged in against Spain. Even after the war was in a manner begun, he made a reduction of his land-forces, and he told his parliament, he did so, because he thought his fleet sufficient not only to give a check to the ambitious views of Spain, but to compel them to agree to reasonable terms: the event, accordingly, answered his expectation; for, by means of his fleet, he soon convinced the Spanish court, how vain it was for them to contend with this nation, or to embark in any projects that were inconsistent with the interest of Great Britain, or with the engagements we had entered into with any of our allies. This is an example, which ought now to be followed; I wish it had been always followed: if we had made the same use of our fleet upon several occasions, since that time, we should never have had any depredations to complain of; nor should we now have had the least ground to be afraid of Spain, or of any power in Europe, that durst take her part against us.

Having now, my Lords, examined the

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present circumstances of the nation with respect to foreign affairs, I shall next beg leave to examine our present domestic circumstances, so far at least as they can be traced from common reports and public news-papers. From these I am sure it does not appear that we are in the least danger of any domestic troubles or commotions. There may be great discontents in the nation, I am sorry they are so general as they appear to be; but, there is no disaffection, nor any seeming design to overturn or disturb the government. If there are any plots or conspiracies in embryo, if the government is afraid of any such, something of it ought to be told, some intimation ought to be made to us of our danger, and some of the reasons for such fears ought to be communicated to us in a parliamentary way: when this is done, I shall be ready to join in any measures for disappointing such conspiracies, and for bringing the conspirators to condign punishment; but, I cannot agree to load and terrify the nation, with such a numerous Standing Army, only because a minister has whispered me, that he thinks our government, or our present happy establishment, in danger.

I know, my Lords, it may be said, that there have been lately many mobs and tumults in several parts of the kingdom, and that therefore, the number of regular forces we have at present, is the least that is necessary for preventing or dispersing such tumults, and for assisting and enabling the civil magistrate to execute the laws of our country. My Lords, I hope, I shall never see this nation reduced to such unfortunate circumstances. A law, which the civil power is unable to execute, must either be in itself oppressive, or it must be such a one as affords a handle for oppression. I hope this House will always have penetration enough, not to pass a law which is in itself oppressive, or at least the goodness to repeal it, as soon as it appears to be so; and I hope we shall always have virtue and courage enough to send that magistrate or that officer to Tyburn, who shall dare to make an oppressive use of any law we give our consent to. Therefore, if there be now any laws in being, which cannot be executed by the civil power, we ought to enquire into them, and the use that is made of them, in order to amend or repeal them: and to contrive some other methods or laws, for answering those ends, for which they were intended. Surely we are not to make a sacrifice of our constitution and liberties, by establishing a military government, for the support of oppressive or dangerous laws, which, through inadvertency or want of foresight, have been agreed to, either by ourselves or our ancestors.

But suppose, my Lords, that the mobs and tumults, which have lately happened, and the opposition that has in some cases been made to the civil magistrate, have proceeded from nothing of an oppressive nature in any of our laws, nor from the oppressive use that has been made of any of them, which, I hope, is the case; yet experience has taught us, that regular troops are far from being proper or effectual instruments, for preventing such tumults, or for aiding the civil magistrate in the execution of our laws. The late atrocious murder committed by the mob at Edinburgh, was perpetrated within a few hundred yards of a whole regiment of regular troops; and even here in Westminster, nay even within the verge of the court, we know that great affronts have been offered to the government, and some murders committed, by mobs within the view of our regular troops. It is impossible, my Lords, to make our regular troops proper or effectual instruments for quelling mobs, or for enforcing the laws of their country, unless you lodge the civil as well as military power in the officers of your army; and such a regulation, I am sure, no lord of this House would agree to, nor would any officer of our army, I hope, desire to see it established.

For this reason, my Lords, we ought to take all possible care, by prudent regulations and frequent enquiries, that the civil magistrate may never stand in need of regular troops, for enabling him to quell a mob, or to execute any law that has been, or shall be enacted. Even with respect to our taxes, we ought to take care to have them so moderate, and levied in such an equal and easy manner, that regular troops may never be necessary for enforcing the payment of them, or for apprehending those that are guilty of defrauding the public revenue; for, it is a bad omen for the liberties of a people, when they are loaded with taxes, which they think so heavy, or so ill applied, that the collectors must always come escorted by parties of horse, foot, or dragoons. Such a people may be kept in obedience, and may be compelled to pay as long as they have wherewithal to pay, by a numerous Standing Army; but from the moment that such measures

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become necessary, the people must be looked on as slaves, and their armies of soldiers and tax-gatherers will look upon themselves as their masters. This, my Lords, is far from being the case of this nation at present. There may be discontents amongst us, there may be some persons who grumble unjustly at those taxes, that have been laid upon them by a free and independent parliament; but, I hope, no man will pretend, that those discontents are, as yet, so general or so violent, or that those grumblers are so numerous, that an army of 18,000 men is the least that is necessary, for keeping our people in obedience, and for compelling the payment of our taxes; therefore, the circumstances the nation is in at present, with respect to our domestic affairs, can afford no argument against our making a reduction of our army.

On the other hand, my Lords, the arguments in favour of a reduction are many, and all of them, in my opinion, unanswerable. I shall mention only two, one of which proceeds from our present circumstances, with respect to foreign affairs, and the other from our present circumstances, with regard to domestic affairs. Our neighbours upon the continent are all now, and have been for several years, cultivating the arts of peace. They are all setting up manufactures of their own, and encouraging trade and commerce among their subjects, with great industry and application. This must of course diminish our trade, or oblige our manufacturers and tradesmen, to sell the produce of their labour at a cheaper rate than they formerly used to do; for as the extensiveness of our trade consists in furnishing our neighbours with those manufactures, which they cannot work up among themselves; if they begin to set up manufactures of the same kind, we can no longer propose to furnish them with such manufactures, unless we can make them better, and sell them cheaper, than our neighbours can have them at home. For this reason, we have now much greater reason to be afraid of the progress of trade among our neighbours, than we have to be afraid of the progress of any of their arms. The progress of their arms we may give a check to, as soon as it becomes formidable, by violent methods, which are quick and easy, because the execution depends upon our government only; but, we cannot pretend to give a check to the progress of their trade, by violent methods, as long as they do nothing that is inconsistent with the treaties they have made with us. We can give a check to their trade by no other method, but that of enabling our merchants to sell cheaper, than our neighbours are able to sell commodities of the same kind and goodness: for this purpose, we must enable our manufacturers and tradesmen to sell the produce of their labour at the cheapest rate; and, the only way to enable our manufacturers and tradesmen, to sell the produce of their labour at a cheaper rate, is, to abolish all those taxes which enhance the price of the necessaries or conveniencies of life, or of any of those materials that are necessary, for working up our manufactures. This, my Lords, we have too long neglected, and to this neglect we may chiefly ascribe the present attempts of all our neighbours, and the flourishing state of the manufactures and commerce of that neighbour, who is our most dangerous rival. Every man who is conversant in trade knows, what great encroachments France has made, since the peace of Utrecht, upon every branch of the trade of this kingdom. As we were then in possession of the principal trade and manufactures of Europe, if we had then begun to diminish our taxes, and to take proper measures for the preservation and improvement of our trade, they could not have made such encroachments upon us, and consequently they could not have been in their present flourishing state, nor should we have been in the distressed condition we are in at present.

The only method, my Lords, we can take, for diminishing our taxes, is to be frugal in our public expences; and, considering the powerful navy we keep in continual repair, and the great number of seamen with which our trade, while it lasts, will always be able to furnish us, there is no article of public expence, in which we can be frugal with more safety and conveniency, than in that of our Standing Army; therefore, we ought to neglect no opportunity for reducing our Army, nor ought we ever to keep up a greater number than is absolutely necessary, according to the circumstances the nation happens to be in at the time. But so far have we been from being frugal and saving upon this article, or, indeed, any other article of public expence, that we have for many years kept up a more numerous Standing Army than was, in my opinion, necessary; and upon most of the other articles we are every year increasing, instead of

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diminishing. Our civil list revenue has been increased from 4 or 500,000*l.* to, I may say, near a million a year. The expence of our army at home has been of late years increased: the expence of our land forces in the plantations, Minorca, and Gibraltar, has been increasing for several years, and is this year higher than it was the last: the expence of Chelsea hospital is every year increasing; and as we are almost every year creating some new post, or adding some new officer to the management and collection of our public revenue, this, I believe, is a hidden and dangerous sort of expence, which has been vastly increased of late years, and is every year increasing. Many smalls, my lords, make a great, as we may see by comparing our present annual revenue with what it was forty or fifty years ago. Before the revolution, the whole of the public expence, which the people of this nation were annually loaded with, was but about two millions: now, what we call the current expence, which the Parliament provides for every year, amounts to above two millions, besides the civil list, the interest growing due every year to our public creditors, and the sinking fund, which are provided for by established, perpetual revenues; and as the civil list revenue may be computed at near one million, the interest growing due upon our public funds at near two millions, and the sinking fund, at above one million yearly, we must reckon that the people of this nation are now, even in time of peace, loaded with a public expence of six millions, instead of the two millions, which was the highest sum they were ever loaded with in time of peace, before the late happy revolution.

This leads me, my Lords, to the other argument in favour of a reduction of our Army, which, I have said, proceeds from the present state of our domestic affairs. If we consider the many and the heavy taxes our people are now obliged to pay: if we consider the great number of years they have been loaded with these taxes; if we consider the frequent hopes that have been given them, of seeing some of these taxes abolished, the many disappointments they have met with, and the despair they are now reduced to, of ever seeing themselves freed from any of these heavy taxes; we cannot wonder at the general discontent which now prevails, even though no late measure, nor any late misfortune, had contributed to add to that discontent. Our people, my Lords, must be relieved from some of the heavy taxes they now groan under: his Majesty, in his first speech from the throne, was so gracious as to declare, that this was what he ardently wished. This revived the hopes of our people; but they have been so long disappointed, that they now begin to lose patience. A reduction of our Army will enable us to answer the people's expectations, or at least it will revive their hopes. This will give immediate satisfaction, and will remove that general discontent which now prevails. It will revive the spirit and the industry of our people, and may recover our trade from the languishing condition in which it is at present. But God only knows the effects which a contrary measure may produce: no man can tell what the people may be drove to by resentment and despair; therefore, every man who wishes well to our happy constitution, or to the illustrious family now upon our throne, must be for a measure that so apparently tends towards reconciling to his Majesty the hearts and affections of his people.

I hope I need not mention, my Lords, the many other disadvantages that attend keeping up a numerous Standing Army in a free and trading country; every one of which affords an unanswerable argument for making a reduction. The keeping up of a standing, mercenary Army in a free country, necessarily destroys the martial spirit and discipline of the rest of the people; and all histories shew, that a cowardly people must soon become slaves to a foreign or a domestic Army. The keeping up of such an Army, in a trading country, encourages and promotes a spirit of idleness, lewdness, debauchery, luxury, and extravagance among all ranks and degrees of men; and every one knows that the trade of a country, especially where it has many rivals, can be supported by nothing but by the industry, virtue, sobriety, and frugality of the people. The quartering of soldiers, even in this country, is a terrible grievance, and a heavy load upon many private men, and is of most dangerous consequence to the freedom of our elections, because it is a rod in the hands of our ministers, which they may make use of for correcting any corporation or county, that shall chuse a member whose face is not agreeable to the court. The providing of a daily support for so many hale, lusty fellows, most of whom have been bred up to some laborious trade, or employment, greatly diminishes our trade, and

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consequently our national revenue, which, every one knows, depends upon the labour and industry of our poor. These are disadvantages which are universally acknowledged; and therefore, we ought never to submit to the keeping up of a standing, mercenary Army, but in cases of the most urgent necessity; nor ought we at any time to keep up a more numerous mercenary Army, than necessity requires.

I shall conclude, my Lords, with observing, that when a parliament is called upon any extraordinary business, or when any affair of an extraordinary nature is to be laid before them, it has always been the custom for our King to take notice of it, or to give some intimation of it, in his Speech from the throne, at the opening of the Session. This is a custom immemorial, and a valuable custom, because it prevents surprize. His Majesty, in his Speech from the throne, at the opening of this Session, was so far from intimating to us, that any affair of an extraordinary nature was to be laid before us, or that any extraordinary demand was to be made upon us, that he expressly told us, he called us together for the necessary dispatch of the public business. From hence I had the pleasure to conclude, that nothing was to come before us, but the usual and ordinary business, that must necessarily be dispatched by us every session of Parliament; and will any man pretend, that the keeping up and providing for an army of 18,000 men, is any part of that public business, which must necessarily be dispatched by every future session of parliament in Great Britain? My Lords, if there were no other reason for making a reduction, this alone would make me sanguine in its favour; lest it should, from our conduct in this session, be presumed, that the keeping up and providing for such an army is an affair of course, an affair which every subsequent session ought to agree to, without the least reason for shewing, that it is necessary for them to do so. I must therefore conclude with moving your lordships, that it may be an instruction to the Committee, "That the number of effective men for guards and garrisons in Great Britain and the islands of Guernsey and Jersey, to be kept up for next year, shall not exceed 12,000."

The Duke of *Newcastle*:

My Lords; I have so great an opinion of the noble lord who spoke last, that I am always extremely sorry when I differ from him upon any question that happens to come before us. In such cases it is even with difficulty I yield to my own opinion, and with great diffidence I presume to give my reasons. As that noble lord always expresses himself in the most forcible manner, as he always places every argument he makes use of in the strongest light, perhaps what I am to say upon the present subject, may, at first view, seem to deserve but little regard. If this happens to be the case, I hope you will not impute it to the weakness of the argument, but to the incapacity of him that makes use of it; for, however coldly or obscurely I may express myself, I am persuaded, that when gentlemen consider seriously the argument itself, without regard to the dress it has been put in, they will have reason to think, that I am swayed in my opinion by nothing but a sincere, and, I hope, a just regard for the honour of my King, and the safety of my native country.

I shall agree with the noble lord, that in all cases which depend upon facts or circumstances, every lord, who has the honour to be a member of this House, is to judge from his own knowledge; but, my Lords, I cannot agree with him in this, that in all such cases, we are to determine ourselves by nothing but that knowledge, which has been communicated to us as a house of Parliament, and by a proper authority. In the case now before us, the nation may be in danger, yea, it may be in imminent danger; some treasonable plot for an insurrection may be in embryo, some dangerous design for an invasion may be upon the anvil, our government may even have had some dark hints of the danger; and yet it may not be proper for the crown to communicate its fears, or the hints that have been given, in a public manner, to Parliament. On the contrary, I believe it is better, generally speaking, to provide against the designs of our enemies, without alarming the people with an account of the danger they are in, or apprizing our enemies that we are acquainted with their machinations. In all cases, therefore, that depend upon facts or circumstances, we are to consider, whether those facts or circumstances are of such a nature, that the crown may safely communicate them in a public manner to Parliament; and if they be such as cannot, in all probability, be safely communicated, we must determine ourselves by common reports and surmises, and according to the credit which we think those reports

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and surmises deserve. Even the whispers of a minister may be of weight in such a question, and must be of weight in proportion to the opinion the listener has formed of the whisperer.

The noble lord, my Lords, has with great judgment examined the present circumstances of Europe, and of this nation; and has endeavoured to shew, I wish I could say, has actually shewn, that we are in no danger from our circumstances, either abroad or at home: but, before I answer particularly what he has said upon either of these heads, I must observe, that he has not attempted to give us one reason, why we should think the tranquillity of Europe, or of this nation, in greater security this session, than we thought it was last session; and yet, I think, it is absolutely necessary, to give some very strong reasons of this kind, otherwise, every member, who was last session for the number of regular forces then proposed to be kept up, must be for the same number this session. I very well remember, I am sure several lords now present may remember, that the same number, now proposed, was last year agreed to without opposition, at least without any debate; and, therefore, I am surprized to hear any lord who was then present, now stand up to oppose the keeping up of such a number for this ensuing year, without shewing some reason, for believing that our tranquillity, both at home and abroad, is now fixed upon a more solid and lasting foundation than it was last session of parliament.

I must confess, my Lords, it gave me some pleasure, to hear from one who is so good a judge, that we are not at present, in the least danger of having our tranquillity disturbed either abroad or at home. Whoever thinks so, must highly applaud the prudent measures his Majesty has taken for restoring and establishing the tranquillity of Europe, and for preserving the tranquillity of these kingdoms. But although I have as good an opinion of the measures his Majesty has all along pursued, though I am convinced he has done every thing for attaining so good an end, that human wisdom could direct, yet, I have the misfortune to think our security is far from being certain and infallible. There are so many changes may happen at the several courts of Europe, that nothing but omniscience can foresee them; there are so many schemes may be formed, for disturbing the present tranquillity, that nothing but an omnipotent power can, with authority, say, none of them shall take effect. As it is against the interest of this nation, to make any conquests upon the continent of Europe, as it is against our interest, to allow any of the princes of Europe to subdue any one of his neighbours, it is therefore our business, to preserve the peace of Europe, and to set bounds to the ambitious views of the several Princes thereof. This, we have of late years effectually done, by keeping our navy always in good repair, and by keeping up a land-army sufficient for protecting our own dominions, and fulfilling our engagements with our allies. It is to this, that the present tranquillity is chiefly to be ascribed; but, if we remove the cause, the effect must cease; if we should reduce our army, we should be no longer in condition to give an immediate check to the ambitious views of any prince in Europe, which might induce some one or other of them, to give a loose to his ambition in hopes of being able to conquer some neighbouring territory, before we could send it a proper relief.

In this light, my Lords, we ought to consider the several princes of Europe, and if we consider them in this light, we may find reason to suspect, that however pacific their inclinations may at present appear, they would not long continue so, if we should put it out of our power to give an immediate check to their ambitious designs. The court of France seem, it is true, to have nothing but peaceable views: I hope, they have really none other; but this is what no member of this House can answer for. There are some territories in their neighbourhood, and not far distant from this island, which it would certainly be very much their interest to annex to their crown: we have reason therefore to suspect, that they will take hold of the first favourable opportunity for doing so; and now that the emperor is engaged in a heavy war against the Turks, is there any thing could furnish them with a more favourable opportunity, than that of putting it out of our power to send an immediate assistance to the emperor? The behaviour of the court of France for many years, their behaviour at the beginning of the last war, may convince us, that we ought not to put great confidence in the present serene aspect of affairs at that court. Nay, the noble lord himself has furnished us with an unanswerable argument, for not allowing the present seeming inclinations

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of the court of France, to have an influence upon any of our measures: in giving the character of the prime minister at that court, he told us, that when that minister found himself under a necesssity of going to war, he began the attack, before his enemies had a suspicion of the danger. Are we not from thence to suppose, that he would behave in the same manner, if we, by a reduction of our army, should furnish him with a favourable opportunity, for making a very considerable addition to his master's dominions!

The best way, my Lords, to prevent an attack, is to be always in a condition to repel it. The court of France seem, at present, to have no inclination to attack us, or any of our allies; but, if we should put it out of our power to repel their attack, it might produce an alteration in their inclinations: They might, they probably would, form a design against some of our allies; and as they must expect, that we would, as soon as possible, fly to the assistance of our allies, they would probably begin with making an invasion upon this kingdom, in order to kindle up a civil war amongst us, which would of course prevent, for some time, our being able to give any assistance to our allies.

I am glad, my Lords, to find the noble lord has now so good an opinion of that minister, who presides in the councils of France. I always thought him a wise, an upright, and peaceable minister. But it is not many years since, I have heard a very different character given of him in this House, I have heard him, even in this House, represented as a cunning, dangerous and designing minister, and if I am not mistaken, that noble lord himself then joined in that opinion. This, I am no way surprised at; for all ministers are liable to have their characters and their measures misrepresented: at the same time, when that minister was here represented as a dangerous, designing minister, he was in France accused, especially by the military gentlemen, of having sacrificed the interest and the glory of France to his own ease and security; but, he has had the good fortune to out-live, as well as overcome all the obloquies, which malice and envy have been able to throw upon his conduct. As that minister has great wisdom, he must have peaceable inclinations; both which became manifest, by his putting an end to the last war, when he seemed able to push it with advantage; for, we all know, that to the love of peace he sacrificed, not only the affair which France had at first principally in view, but he likewise sacrificed some of the views of each of his allies; and, if we consider it right, the acquisition he made to the French dominions was no very great acquisition: he acquired only a right to that province, which the French have by violence possessed for many years past: so that, though he has added to their rights, he cannot be said to have added to the possessions, and consequently, not to the power, of the kingdom of France.

But, my Lords, I must observe that, whatever sacrifices he then made, whatever bounds he set to the ambition of France, those sacrifices, and that moderation, must be imputed rather to his wisdom than his love of peace. He knew the preparations we had made, he knew the measures his Majesty was taking, for putting a stop to the arms of France and its allies, in case they had offered to push their conquests, farther than was consistent with the preservation of the balance of power in Europe. He well remembered the danger and distress that were brought upon France, by the alliance which the ambition of Lewis 14 had occasioned to be formed against him, and therefore, by his moderation, he wisely prevented its being necessary to form such another alliance. This was apparently the true cause of his moderation at that time; and this cause will subsist, and will produce the same effect, as long as we follow the same measures.

But if we, by a reduction of our army, should put it out of our power to follow such measures, that very wisdom which then prevailed with him to use moderation, would, in such a case, prevail with him to lay hold of the opportunity with which our folly had furnished him, for adding to the dominions and power of his native country. Nay, suppose him as great a lover of peace, and as little swayed by ambition, as the noble lord has represented, and so honest and upright as not to take advantage of the most favourable opportunity for doing injustice, yet if we should furnish him with such an opportunity, it would hardly be possible for him to withstand the prevailing spirit of his country; and if, by the great authority he has acquired, he should be able to withstand it, our security would depend entirely upon his life; for we cannot suppose a new minister could, or would, withstand it: On the contrary, he would, in my opi-

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nion, most probably comply with it, in order to establish himself in power, by gaining popularity, and by adding to the glory and dominions of his country.

From hence, my Lords, I think it must appear, that if the tranquillity of Europe, or the tranquillity of this nation, be in any security at present, that security proceeds from, and must depend upon, our keeping up the same number of forces we have now on foot. If we do this, I believe we are in no danger of any present disturbance; but if we do otherwise, if by a reduction we render ourselves unable to assist our allies, according to the engagements we have entered into with them, it may produce such a change in the face of affairs abroad, as may give us reason to repent heartily of what we have done. This would afford a just and a real cause of complaint. The enemies of our government would then have no occasion to invent lies and calumnies for misrepresenting and defaming our administration. They might then justly accuse them of having betrayed our allies, and sacrificed our own security, by an ill-timed and imprudent piece of frugality; and I make no doubt but they would make as much use of this handle as possible, for raising discontents in the nation, and for alienating the minds of the people from his Majesty and his government.

Whatever measures the Dutch may follow, or whatever opinion they may have of the sincerity of our neighbours, can be no rule for us, my Lords. If we should make a reduction, and that reduction should be followed by an attack upon us, or some of our allies, it would be a poor excuse for us to say, we trusted to the sincerity of our neighbours, because we found the Dutch did so. However, I must take notice, that the Dutch have of late made no reduction, and as they are more in debt in proportion than we are, I must be of opinion, that if they thought themselves so very secure, they would have made a reduction before this time. As for the emperor, we cannot say it was the confidence he put in the pacific disposition of the court of France, that made him engage in the present war against the Turks; for by his treaty with Muscovy he was obliged to engage in that war, and that treaty was made when he could put no confidence in the pacific disposition of the court of France: at least if he did, he has since found himself mistaken; for since the making of that treaty he was attacked, and has been dispossessed of some part of his dominions, by France and her allies.

It is true, my Lords, while the emperor continues engaged in the present war against the Turks, there is no danger of his attacking any of his neighbours on this side; but there is nothing like an equal security, that, during the continuance of that war, he will not be attacked by some of the powers on this side, especially if we should disable ourselves from giving him any assistance. If he meets with good success in his war with the Turks, it may excite the jealousy of some of his neighbours on this side; and if he meets with bad success, it may revive their hopes of being able to make some conquests they have long aimed at; so that in either case, there is, I think, a greater probability that he will, than that he will not, be attacked on this side; and if he should, we must engage in his favour, in order to preserve ourselves by preserving the balance of power in Europe. The French have indeed, offered their mediation for putting an end to that war, and their mediation has been accepted by the emperor, nay, it has been accepted even by the Muscovites, notwithstanding the animosity which then seemed to subsist between the two nations; but this mediation has as yet produced no effect, and when it does, it is then time enough to conclude from thence, that there is a thorough harmony subsisting between the courts of France and Vienna.

With respect to Muscovy, I shall grant, there is no likelihood of their attacking any of their neighbours in Europe, while they are engaged in a war with the Turks; but that war may soon come to an end, and if they end it successfully, it may inspire them with thoughts of extending their dominions on this side; for we may remember, it is not a great many years since we were obliged to send a fleet to protect Sweden against them, and it would be our interest to send land forces as well as a fleet, rather than to see that kingdom conquered by Muscovy. Then, with regard to the two northern powers, I shall agree with the noble lord, that they seem more intent upon improving their commerce by the arts of peace, than upon extending their dominions by the art of war; but this spirit may soon take a different turn; and I must observe, that not much above 20 years ago, we were threatened with an invasion from Sweden: if the warlike and resolute prince who was then upon their throne, had landed in any part of this

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island, with a body of veteran troops under his command, though his attempt might not have had the success he expected, yet it would have put this nation to a much greater charge than it can be put to, by keeping up an additional number of 5 or 6,000 regular forces for one year, or even for 20 years. And with regard to Italy, my Lords, though the peace of that country is now secured by the guarantee of the crown of France, yet that security is, I am afraid, upon an uncertain and precarious foundation; for if the present chief minister of France should die or resign, the new ministry in that kingdom might fall in with the views of Spain, and in that case, I believe, that instead of guaranteeing the emperor's dominions in Italy, they would join with Spain in endeavouring to drive him entirely out of the country.

I come now, my Lords, to consider the circumstances of this nation, with regard to Spain and Portugal. As to the latter, I believe, we have not the least occasion to fear an attack from thence, or that we shall be drove into a war, for preventing any of their ambitious designs; but, I cannot say so much of the former. On the contrary, I think, the peace between them and us is, at present, in a ticklish sort of state; and, I do not know, how soon a war may be kindled up in Europe, by their ambitious projects against Portugal or Italy. It is but very lately since we were obliged to send a squadron to the Tagus, for preventing the execution of their projects against Portugal; and if that dispute had come to an open breach, and it is more than probable, we should have been obliged to send land forces thither, as well as a fleet of men of war. Upon this last occasion, it is true, our fleet put an end to their ambitious project; but we are far from being certain, that Spain will always put a stop to her designs against Portugal, upon the first appearance of our fleet; for as Portugal lies open to them by land, they may not only attack, but conquer that kingdom, in spite of all we could do by means of our fleet only. Therefore, if we have a mind to preserve Portugal against the attempts of Spain, and surely it is our interest to do so, we must always keep ourselves in a condition to send a body of land forces, as well as a squadron of men of war, to protect that kingdom, in case of any sudden attack from Spain.

As for the interests or inclinations of the court of Spain with regard to this nation in particular, I shall readily agree with the noble lord, that it is against the interest of the Spanish nation to have any misunderstanding with this; but, my Lords, from the late behaviour of the Spaniards towards the subjects of this nation, we must presume that they are either of a different opinion, or that they have very little regard to the interest of their native country; for it is certain, that the commanders of their Guarda Costas in the West-Indies, and even some of their governors, have done what they could, not only to create a misunderstanding, but to kindle up a war between the two nations; and if some of our own subjects, who have made themselves a sort of Boutefeus upon that occasion, had got their aim, there would have been now no attempt to reduce our army; for we should have been at this time involved in a bloody war with that nation, very much to the disadvantage of both, and greatly to the satisfaction of the enemies of both.

The depredations lately committed by the Spanish Guarda Costas, and I am afraid, too much countenanced by some of their governors, in America, I shall join with the noble lord, my Lords, in calling piratical practices, because I believe none of them were authorized, or any way countenanced by the court of Spain; nor has that court, I believe, as yet refused to order satisfaction to be made, and the offenders punished, in any case where the fact could be fully proved to be piratical or unlawful, and the offenders discovered. But as the resolutions of courts are not always governed by justice, prudence or reason, we cannot answer for what they may do. The practices of some of these Guarda Costas, and perhaps of some of these governors, have been such, that we must insist upon satisfaction; and if it is refused by the court of Spain, we must seek for that justice and reparation in a hostile manner, which we find we cannot obtain in a peaceable. These are the true circumstances of this nation at present with regard to Spain; and in such circumstances, I must think it would be imprudent in us to do that which must necessarily diminish the weight of our peaceable, and at least retard the effect of our warlike endeavours for obtaining that satisfaction which we must insist on; for with respect to our negotiations, it is certain, that Spain will not be so ready to comply with our demands in a peaceable way, when they know we cannot put above 4 or 5,000 land-forces on board any fleet

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we may send to infest their coasts, as when they know we can immediately put 8 or 10,000 land-forces on board such a fleet; and if we should be obliged to declare war against that kingdom, I am sure 4 or 5,000 regular troops, landed on any part of their coasts, could not stay so long, nor do them so much mischief, as 8 or 10,000 such troops could do.

Nay, my Lords, if we should agree to the reduction proposed, I do not think we could spare to send one regiment, either to infest the coasts of Spain, or to guard our own plantations in America; for, however contemptible an opinion some gentlemen may express of the power of Spain, it is certain they can send out at any time 5 or 6,000 good troops, to make an invasion upon us. These troops may be embarked so privately, and may sail so suddenly, that they may land before we have heard of their embarkation; and if 5 or 6,000 good troops, with the Pretender, or any of his chief adherents at their head, should be safely landed, in any part of Britain or Ireland, they would involve us in a civil war, they might even endanger our present happy establishment, unless we could, in a few days, assemble such a body of regular troops, near the place of their landing, as would be sufficient to attack and defeat them, before they could have an opportunity of being joined by any considerable number of the disaffected part of our own people. This, my Lords, is no imaginary apprehension: the troops that were designed against us from Cadiz in the year 1718, would have been landed in this island, before we had heard of their embarkation, if they had met with a fair wind, instead of meeting with that tempest, which dispersed them, and disappointed their design. The winds and waves were then our only safeguard; but the winds and waves are not under our command; and therefore, it is a safe-guard, upon which we ought never to place our only dependence.

His late Majesty, it is true, my Lords, trusted entirely to his fleet, for putting an end to the war he was engaged in with Spain; and, therefore, he reduced his land-army; but, the circumstances we are now in, are extremely different. The French were not only our firm allies, but our partners in that war, and invaded that kingdom with an irresistible land-army, while we scoured their coasts with an irresistible navy. For this reason, we had then no occasion to send any land-forces against them; but, if we should now be engaged in a war with Spain, can we expect such a partner? Can we expect any such assistance? I hope, France would not declare against us: I have reason to believe they would not; but, it is to be feared, that the subjects of France would underhand give the Spaniards all the assistance they could. This, my Lords, is a material difference; and, I must take notice, that though his late Majesty had no occasion to attack Spain with a land-army, yet, the reduction he made of his land-army, probably, gave rise to their design of invading us, and put this nation to an expence much superior, to what we saved by the reduction.

Thus, my Lords, I have endeavoured to follow the noble lord, in his remarks upon the several counties and potentates of Europe, and, I think, I have shewn, that whatever seeming security the tranquillity of Europe may be in at present, it depends upon a very unsettled foundation. Nay, I think, I have shewed, that the tranquillity and security we now enjoy, is chiefly owing to the army we have kept up, and that it entirely depends upon our continuing to keep up the same Army. I shall now beg leave to make some remarks upon our domestic circumstances, by way of answer to what the noble lord has been pleased to say upon this head. With regard to them, my lords, I shall grant, that we cannot properly say, there is any considerable disaffection among our people. I believe there are very few amongst us, who are really enemies to the illustrious family now upon our throne, or who have a blind, and I may add, a mad affection, for any other family; but, my Lords, there is such a spirit of sedition, such a spirit of disobedience to all government, lately gone forth, that, I am persuaded, if it were not for our army, we should have not only mobs and tumults, but insurrections and rebellions in every corner of our dominions. How this spirit has come to prevail so much, or spread so far, I am at a loss to account for. I am sure, no man can say, it is owing to any acts of oppression or injustice in our government; and therefore, I am apt to impute it to the many defamatory libels that are spread daily, weekly, and monthly, through the whole kingdom, and the unlawful, though not illegal, liberties they take with magistrates, whose characters as well as persons are made sacred, by the laws of all countries but this. When such a spirit is so universal, it is not to be supposed, but that some ambitious, or necessitous, great

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and wicked men, would be forming plots and conspiracies against the peace and government of their country, if their hopes of success were not prevented by keeping up a body of regular forces; and therefore, though there may be no plot or conspiracy at present, it is to be supposed there would soon be one, if we should make a reduction of our army; for, I must observe, upon this occasion, that we never did reduce our army much lower than it is at present, but what it occasioned some plot or conspiracy against the government. The rebellion in 1715, was occasioned by the small number of regular forces we had then on foot; the designed invasion from Spain in 1718, was occasioned by the reduction of our army; and the plot, usually called the bishop of Rochester's, in 1721, proceeded from the same cause; from whence it appears that the only way to preserve our domestic tranquillity, is, to preserve that which is the cause of it, I mean, the number of regular forces we have now on foot.

The army, it is true, (my Lords) cannot entirely prevent mobs and riots, nor can they prevent some little mischiefs being done, by a sudden and unlooked-for tumult; but the army will always be able, I hope, to prevent a mob's forming itself into an insurrection; and, there would certainly be a great many more mobs, and a great deal of more mischief done by those mobs, if it were not for our army. The mob at Edinburgh would, probably, have proceeded to other, and more heinous outrages, if they had not been overawed by a regiment's being in their neighbourhood; and here in Westminster, and in most other places of the kingdom, if it were not for our regular troops, our magistrates themselves, perhaps some persons of the first rank or quality, might be made sacrifices of by the mob, instead of those low sacrifices they now sometimes, though rarely, make, of informers, and inferior executioners of justice. Even those little pieces of popular justice, or rather of popular resentment, which have been lately executed by the mob, are owing to the small number of regular troops we have now on foot, and the great regard those troops shew to the laws and constitutions of their country; for, we cannot have a body of such troops in every place where a mob may happen, nor can those troops march, or attempt to quell any mob that does happen, till they are regularly, according to the instructions they have from his Majesty, required so to do, by a proper civil magistrate; so that some mischief is generally done by the mob, before the troops can march up to them, or attempt to disperse them; and, sometimes the march of the troops is prevented, which was the case at Edinburgh, by the ignorance or neglect of the civil magistrate, who ought to call them to his assistance.

As for taxes, my Lords, I am sure no government can be supported without taxes of some kind or other, and wherever there are taxes or duties upon goods of any kind, there will be smuggling: That smuggling the government must endeavour to prevent and punish; and when the smugglers arm themselves with military weapons against the civil power, a military force of some kind or other must be employed against them. If you were not to employ regular troops in such cases, you must employ your militia; and, I think it much better to employ regular troops, than to expose the lives of your gentlemen, freeholders, merchants, or tradesmen. The laws relating to our taxes are, I think, the only laws that meet with a frequent opposition in their execution; and if there is any thing really oppressive in any of these laws, I shall readily agree to amend or repeal them; or if an oppressive use has been made of any of them, I shall readily join in an enquiry into the abuse, and shall be glad to see the offenders meet with condign punishment; but while these laws subsist they must be executed; and every one knows, that it often becomes necessary to employ a military force for that purpose.

We have no taxes, my Lords, but what are necessary for the current service, and for paying off the interest and principal due to the creditors of the public; therefore our taxes can give no disquiet to any man, who has a regard for the safety and honour of his country. Our debts, or a considerable part of them, must be paid off, before we can diminish our taxes. This will in a few years be the necessary effect of the sinking-fund, if in the mean time the nation be put to no extraordinary expence; for if it should, that fund must be diverted, or new taxes laid on the subject. The only infallible method therefore, for diminishing our taxes, is to prevent the nation's being put to any extraordinary expence; and as invasions, plots and conspiracies, always bring an extraordinary expence upon the nation, and

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are, as I have shewn, generally the consequences of making a reduction in our army, therefore the only infallible, and most speedy way for diminishing our taxes, is to make no reduction in our army, unless we were absolutely secure both against invasions from abroad, and conspiracies at home. From hence I must conclude, that, if we have a mind to remove, as soon as possible, those discontents that may now be occasioned by the number and weight of our taxes; if we have a mind to give a speedy check to the trade of our neighbours, by enabling our manufacturers and tradesmen to sell the produce of their labour at a cheaper rate than usual; we must be extremely cautious of making a reduction in our army.

As for the other arguments, my Lords, in favour of a reduction, which the noble lord was pleased just to mention, they are all of them arguments against keeping up any number of regular troops; and as they have been all fully answered upon former occasions, I shall not take up your time with repeating those answers: only I must observe, that it is a great mistake to imagine, that as soon as a man becomes a soldier, he ceases to be a tradesman or labourer: on the contrary, there are many soldiers who, when they are not upon duty, work as hard as any tradesman or labourer in the kingdom; and I believe, no officer will refuse to give a soldier leave to be absent, when his duty does not necessarily require his presence; nay, they are often allowed to be absent from duty, if they can procure one of their companions, not then upon duty, to do their duty for them; therefore we must not conclude, that the yearly profits, or revenue of the nation in general, suffers any great diminution by the number of regular troops now kept in pay.

I shall agree with the noble lord, that when any affair of an extraordinary nature is to be laid before parliament, it is usual for the King to take some notice of it in his speech from the throne, at the beginning of the session; but surely, my Lords, the keeping up of the same number of regular troops we had last year, the same we have kept up for several years, the least number, I believe, we have kept up ever since his Majesty's accession, cannot be called an affair of an extraordinary nature. There was, therefore, no occasion for his Majesty to take notice of it, in his speech from the throne; or to mention any thing about the army, unless he had then thought that there would be a necessity for encreasing it. If there had been any such design, his Majesty would certainly have mentioned it, and would have told us some of his reasons for thinking, that an augmentation would be necessary; and from a parity of reason, when any member thinks a reduction ought to be made, it is incumbent upon him to shew some late alteration in the circumstances of the nation, for inducing us to believe that such a reduction may with safety be made. This, as I took notice at the beginning, the noble lord has neglected to do, and this to me is of itself a convincing proof, that no reduction ought to be made; because, as he never misses any good argument that can be made use of in favour of what he proposes, if there had been any alteration, I am sure he would not have missed setting it in the most clear and conspicuous light.

The Earl of *Chesterfield*:

My Lords; Although I expected that there would this day be some debate upon the affair now before you, yet I came hither without the least design of giving you any trouble upon this occasion; for the question now before you has been so often debated, and all the arguments that can be made use of in its favour, so clearly and distinctly put, upon former occasions, that it is difficult to say any thing new upon the subject: but the noble lord who spoke last, took occasion from what happened last year, to make use of an argument, which, I think, lays an obligation upon me to declare my approbation of what is now proposed to you, in the most public manner: the noble lord took notice, that the number of forces proposed to be kept up for the ensuing year, was agreed to last session of parliament without any opposition or debate, and therefore his lordship concluded, that the same number ought likewise now to be agreed to without opposition, unless we could shew, that some material alterations have happened in the affairs of the nation since last year.

My Lords, suppose I am indolent and neglect to oppose, or speak against what I disapprove of in one session, is that a reason why I should not oppose it, or speak against it, when it comes before the House in a new session? My silence last year did not proceed from my approving of what was then done, but from a presumption, which I had formed from repeated

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experience, that nothing I could say upon that subject, would have any weight with the majority of this House; and this, I am afraid, will be the fate of what I am now to say. However, in order to prevent the same argument's being made use of next session, I am resolved to say something; and to satisfy that noble lord in what he seems so solicitous about, I must acquaint him, that I think our present circumstances very different from what they were last session. The peace between the emperor and France was then but lately concluded; and as the affairs of Europe had, by means of that peace, taken a very new, and a very extraordinary turn, it might last session have been alledged, that we ought to continue our army, till we should see what changes that turn might produce. Though I do not think this would have been a good argument; yet, even this argument is now removed; because that turn is not, we find, like to produce any changes to our disadvantage, at least none we can prevent by keeping up our army, whatever might be done by disbanding a part of it. Last session, the war between the Emperor and Turks was just upon the point of breaking out; and we did not then know, but that France or Spain would take advantage of that war, to attack the Emperor. This too, I think, would have been no good argument: but this likewise is now removed; for we find France is so far from attacking the Emperor, that she is labouring to bring about a peace between him and the Turks, and to accommodate all differences between him and the court of Spain. Therefore, even those who voted for the number of forces last year, may with good reason oppose keeping up the same number for the ensuing.

Another argument, my Lords, which the noble lord made use of, may shew us how cautious we ought to be of agreeing to any encroachment upon, or alteration in, our constitution. He told us, that the keeping up of a mercenary Standing Army of 18,000 men was an affair of no extraordinary nature: for why? because the same number was kept up last year, and has been kept up for several years. My Lords, the keeping up of any such army in time of peace, is an encroachment, and but a late encroachment, upon our constitution; therefore, the keeping up of any number of regular troops, is an affair of an extraordinary nature; but, the keeping up of such a numerous army, is an affair of a most extraordinary nature, so extraordinary, that it ought never to be agreed to but in times of the most apparent, and most imminent danger; and, the reasons for apprehending that danger, ought always to be communicated to parliament by his Majesty, either in his speech from the throne, or by a special message. If we do not lay this down as an inviolable maxim, the keeping up of such a numerous, perhaps a more numerous army, will become an affair of course; and, if it should become so, I can see no reason for not establishing it by a perpetual law. I wish the Bill now before us had been a Bill of such a nature. Such a Bill would have made people sensible of their danger; whereas, by the method we are in, we are like to have a perpetual army palmed upon us, under colour of an annual Bill. An army kept up by a perpetual law, would be as much an army kept up by consent of parliament, as an army perpetually kept up by an annual Bill. I can see no difference between the one and the other: they are both dangerous, and equally dangerous to our constitution; and were thought so by the whole nation, except a few courtiers, in the reign of king Charles 2, when the custom of keeping up of a few regular troops, under the denomination of guards, was first introduced. I do not know how the words, 'unless with consent of parliament,' crept into the Claim of Right; for, from the Journals of parliament it appears, the House of Commons in king Charles 2nd's time, were of opinion, that the keeping up a Standing Army in time of peace, was inconsistent with our constitution, whether that army was kept up with or without the consent of parliament: in their resolutions, there is no such exception; and, if the keeping up a Standing Army in time of peace be wrong, as it must be, if it be inconsistent with our constitution, I am sure the sanction of parliament, whether by an annual or perpetual law, cannot make it right.

I need not, I believe, my Lords, trace the noble lord in his travels over Europe, in order to extenuate the dangers he has endeavoured to pick up, for shewing the necessity we are under at present, for keeping up such a numerous army. I think, all the dangers he has mentioned, either abroad or at home, depend upon may-be's which must always subsist. A minister may die, a prince may have ambitious views, a prince's success may raise the jealousy of others, his misfortunes may revive their hopes, there may be a design

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to invade us, though we have not, at present, the least item of it, Spain may refuse to do us justice, or may be assisted by the French, though we have yet no reason to expect either the one or the other, a plot for an insurrection may be forming, though we have not, at present, the least intimation of any such thing, no, not even from common reports or surmises: and all these may-be's or possibilities, will become probabilities, or certainties if we should reduce our army.

Are these arguments, my Lords, that can convince any man in the kingdom, of our being under a present necessity, for keeping up a numerous Standing Army in time of peace? if they are, they must always be so. Can there ever be a minister who can be supposed to be immortal? if there could, the present minister in France has as good a title, and deserves as much to be immortal, as any minister ever did; but, luckily for us, he is not so; for, he has done this nation more harm by his peaceable measures, than he could ever have done by any warlike and ambitious projects. Can there ever be a time, when it can be supposed that no prince or state in Europe has any ambitious views? if there could, it would be the present; for, no prince in Europe seems, at present, to have an ambitious view, at least against any of his Christian neighbours: a certain queen, indeed, may be supposed to have some ambitious views in favour of some of her children; but her ambition is now restrained, by the guarantee of France; and that, I believe, will be sufficient without our assistance. Can there ever be a time when it can be supposed impossible for any prince in Europe to be meditating an invasion upon us? if there could, the present would be that time; for, there is now no prince in Europe that either has, or is preparing a fleet that can give us the least umbrage. Can there ever be a time, when it can be said, that no man is mad enough to be conspiring against the government, or contriving some such plot as that which was lately executed in Westminster-hall? if there could, I am sure we might say so at present; for, however much dissatisfied the people may be with some persons concerned in the administration, none of the mobs or tumults that have lately happened, have expressed the least resentment against his Majesty, or any of the royal family, nor the least dislike to our present happy establishment.

It is not possibilities, my Lords, it is not probabilities, nothing but certain, immediate danger, ought to induce us to agree to the keeping up of such a numerous army as we have at present. A foreign power preparing to disturb the tranquillity of Europe, or to invade this nation; a plot or conspiracy actually formed, and in part discovered, would be a good reason for our continuing the same number of forces in pay for one year longer; and, if his Majesty had, either by his speech, or by a special message, told us, that he had reason to apprehend such a thing, I am convinced no such question as the present would, this day, have been started; I am sure I should not have agreed to it. But I have no such veneration for last session of parliament, or for any former session of parliament, as to agree to the keeping up a Standing Army of 18,000 men, only because they thought fit to agree to the keeping up of that number.

In talking of providing against what may happen, we seem, my Lords, to forget the dictatorial power, by our constitution always lodged in the crown, which enables his Majesty to take care, during the recess of parliament, 'ne quid respublica detri-'menti capiat.' We seem to forget, that, as long as we have money to pay for them, we may, upon any emergency, have what troops we please from Germany, and have ships always ready at command to send for them. We seem to think there are no men in the kingdom able to bear arms, but such as are listed in the army. We seem to think, that if any regiments were disbanded, both officers and soldiers would all run immediately out of the kingdom. Do not we know, that the officers would all be kept upon half pay, and the soldiers would betake themselves to their former employments, or would become labourers in the country, where such servants are much wanted? suppose the army should be reduced much lower than is now proposed, and suppose, after that reduction, and during the recess of parliament, a rebellion should break out, or an invasion should be threatened, could not his Majesty, by virtue of that prerogative, which I have called the dictatorial power, send for regular troops from Holland, Germany or Denmark? could not he immediately issue orders for raising new regiments? the officers would be all ready at his call, and the old soldiers, if they refused to list, might be forced into the service. I should be glad to know, why a soldier may not be pressed, as well as a sailor? I should be

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glad to know, why we should keep our soldiers in continual pay, and dismiss our sailors as soon as the danger is over. Our politics in this case, are, I think, a little preposterous, as well as in several other cases I could mention. In my opinion, we have more reason to keep our sailors in continual pay, than our soldiers. The latter cannot well leave us, the former may easily leave us; and, by the treatment they meet with at home, are often forced into foreign service. To which let me add, that a ploughman or a tradesman may much sooner learn to be a soldier, than he can learn to be a sailor.

These considerations, my Lords, shew, that, if the noble lord's may-be's should become shall-be's, a reduction of our Army could be no great disadvantage to us, nor could it much enhance any danger we can be under from invasions or insurrections; but, with respect to the dangers that may ensue from a reduction, or from the keeping up of our Army, I find, some lords are apt to judge after a very odd manner. When we talk of a reduction, and the dangers that may from thence ensue, they look upon possibilities as probabilities, and upon probabilities as certainties; whereas, when we talk of keeping up a numerous Army in time of peace, and the dangers that may from thence ensue, their method of judging is directly reversed: certainties are with them then nothing but probabilities, probabilities nothing but possibilities, and possible events they take to be such as cannot possibly happen. This has been the way that courtiers have judged, ever since we first began to keep up any thing like regular troops; and, they seem still to continue to judge in the same way, though experience has shewn, that they ought to judge quite otherwise.

Necessity, my Lords, was pleaded for our first Standing Army, and that necessity was to last but for a year, that Army was to be kept up but till next session of parliament. The friends of liberty and our constitution then prophesied, that the necessity then pretended would last for ever, and that a Standing Army, if once introduced, would become perpetual, which the courtiers pretended to think impossible. Experience has since shewed us the certainty of what the courtiers then pretended to think impossible. A body of Guards were the first regular troops kept up by authority of Parliament: the friends of liberty looked upon these Guards as the seeds of a Standing Army, and prophesied, that, like all pernicious weeds, they would increase vastly, that they would increase so as to choak our constitution. The first part of this prophecy has been fulfilled, God grant the other may not. A courtier would then have said, it was impossible that a body of Guards, not exceeding 800 men, should increase to an Army of 18,000; yet we see it has come to pass; and, upon every occasion, the word necessity was urged for increasing, as it was at first urged for establishing, this body of regular troops. A few more troops were always said to be necessary, a few more could subject us to no danger; so that, by a few more, and a few more, we at last arrived at the number we have now on foot. This, my Lords, is a most dangerous doctrine; an army is like a medicine, which ought never to be taken, but in a dangerous distemper, and then it may be a good remedy, if taken to a proper quantity; but, by adding a drop more, and a drop more, you may make it a poison; and, an able physician only can determine, where the remedy ends, and where the poison begins. A quack, through ignorance, or for some little selfish end, often poisons his patient by giving too large a dose, or ruins his health, by giving him the medicine when he is in no danger. Like him, if you keep up a numerous Army, when there is no danger, you'll destroy the health of your constitution; if you keep up a greater number than is proper, you'll poison it.

To keep up a numerous Army, my Lords, for the sake of guarding against dangers that can only be said to be possible, is to expose ourselves to those dangers that are probable, for the sake of avoiding those that are only possible; which no man can say is prudent. Nay, I may go farther, I may say, that the keeping up of a numerous Army in time of peace, is no proper safe-guard against those possible dangers it is kept up to prevent, and exposes us to dangers that are certain. Slavery and arbitrary power are the certain consequences of keeping up a Standing Army, if it be kept up for any number of years. It is the machine by which the chains of slavery are riveted upon a free people, and wants only a skilful and proper hand to set it a going. This it will certainly at last, and perhaps soon, meet with, if you do not break it to pieces, before the artist takes hold of it. It is the only machine by which the chains

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of slavery can be riveted upon us; they may be secretly prepared by another, by corruption, which, like the dark and dirty channel through which it runs, may hiddenly and imperceptibly forge our chains; but by corruption they can be forged only: it is by a numerous Standing Army that they must be riveted. Without such an Army we should break them asunder as soon as we perceived them, and should chop off the polluted hands of those that had prepared them.

It is no argument, my Lords, to say, we have kept up an Army for a great many years without being sensible of any danger. A young, fiery horse is never brought at once to submit to the curb, and patiently to receive the rider upon his back. If you put the bit into his mouth without any previous preparation, or put a weak and unskilful rider upon his back, he will probably break the neck of his rider; but by degrees you may make him tamely submit to both. A free people must be treated in the same manner: by degrees they must be accustomed to be governed by an Army, by degrees that Army must be made strong enough to hold them in subjection. If you should at once attempt to govern your people by a military power, and before they are a little prepared for the yoke; if you should mount your Army upon them, before it has gathered strength to keep its seat in the saddle, your people would probably break the necks of those that attempted to ride them. But we have already, for many years, been accustoming our people to be governed by an Army, under pretence of making use of that Army only to assist the civil power; and by degrees we have been for several years encreasing the number, and consequently the strength, of our Army. At the accession of his late Majesty our Army was but 6,000. It soon mounted up to double that number; and, under various pretences, it has been encreasing ever since. But within these few years, three regiments, which make near 2,000 men, were added to it, under pretence of strengthening our garrisons at Gibraltar and Portmahon; and this last year, a new regiment of 600 men has been added to it, under pretence of securing our colony of Georgia. I find no fault, my Lords, with securing our valuable possession of Gibraltar and Portmahon, or with securing any of our plantations in America; but I think it was needless to encrease our expence, and our danger, by raising new regiments for that purpose, when we had so many useless regiments at home, some of which might have been sent upon that service. I say useless; for with respect to any good use that can be made of them, I think them not only useless but dangerous: whereas, if they had been sent abroad, they would have been useful, and would have been much less dangerous: to which I must likewise add, that they would have been less expensive; for I must observe, that the regiments we send abroad cost the nation less money, in proportion to the number of men, than those we keep at home; because, in the latter, there are always more officers in proportion than in the former; which shews, though I shall not pretend to give the reason, that abroad, the soldiers of our army are thought the most useful, but at home the officers.

From hence we may see, my Lords, that our Army is almost every year increasing; and from hence I must conclude, that slavery under the disguise of an Army for protecting our liberties, is creeping in upon us by degrees; for if no reduction be made this year, I shall expect in a few years, to hear some minister, or favourite of a minister, terrifying us with imaginary plots and invasions, and making the tour of Europe in search of possible dangers, in order to shew us the necessity of keeping up a mercenary Standing Army, of treble the number we have at present.

Attempts to overturn the balance of power in Europe, designs to invade these kingdoms, and plots or conspiracies against our government, I shall grant, are dangerous things; but now, my Lords, let me examine, if the keeping up of a Standing Army in this island in time of peace, be a proper method for guarding against any of those dangers. If we have a mind to prevent invasions, or to preserve the peace, or balance of power in Europe, and for that purpose, to preserve an influence upon the councils of foreign princes; the increasing or keeping up a numerous Standing Army is, in my opinion, the worst method we can take. Did the increasing of our army in the year 1725 do us any service? Did it add to the weight of our influence upon the councils of any potentate in Europe? Every one knows it did not. Again, upon the breaking out of the last war, we encreased our army. Did that preserve or restore the peace of Europe? 'Tis true, there was a plan of peace concerted by some powers I could name: but did either of the parties engaged in war, shew the

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least regard to that plan? Did they not privately, and between themselves, conclude a peace upon a very different plan? A plan which we would never have proposed, a plan which the emperor would never have agreed to, if we had at that time had the least influence upon his councils; and therefore, I may say, a plan which was concerted and agreed to without our knowledge or participation. The cause of our having lately had so little interest upon foreign councils is plain; for as we have no frontier to defend, nor any fortified towns to garrison, while we keep up a numerous Standing Army, all the powers of Europe will conclude, that our people are generally disaffected, and that our government is obliged to keep up a numerous Standing Army, in order to extort from the people, by force and fear, that obedience, which it cannot expect from their affection or esteem. This will not only prevent our having any influence upon foreign councils; but it will make our neighbours despise, insult, and encroach upon us; and it will encourage them to form designs for invading us, if we should at any time dare to vindicate our rights, or revenge the insults that have been put upon us.

This, I am afraid, my Lords, is the case at present with regard to Spain. I believe that nation would not have dared to have treated us in that manner they have done, if they had not judged, from our keeping up a numerous army, that there is a formidable, disaffected party amongst us; and if they should flatly refuse to give us satisfaction, I believe it will proceed from the same cause. But I do not believe they will flatly refuse. If a rogue were in possession of my estate, I should think him a fool as well as a rogue, if he flatly denied restitution, as long as he could by fair promises prevent my going to law; or if he flatly denied to make any restitution, when he found that I would be satisfied with a restitution of one moiety. Spain will, I believe, do as they have done, they will give us fair promises, or they may perhaps offer a partial reparation; but we can expect no full and effectual satisfaction or security, as long as they think we are afraid of our own people; therefore the only way to obtain either, is to shew them, by a reduction of our army, that we are neither afraid of our own people, nor of any invasion they can attempt.

In the last war we made upon Spain; I do not mean the last they made upon us; for in the years 1725 and 6, they made war upon us, though we made none upon them, being then, it seems, in a Christian-like disposition, which, I believe, has encouraged them to make a sort of war upon us ever since: but I mean, my Lords, in the war which happened between the two nations in the year 1718, it was not the smallness of our army that made them attempt to invade us, but the powerful assistance they expected, from the party which had but just before, without hopes of any foreign assistance, dared to take arms against the government. Nor was it the Regent of France that compelled the Spaniards to make peace with us; for though he invaded them with an army, yet they knew they had a great party of friends in France, and that the Regent would have run the risk of being turned out of the regency, if he had attempted to do any great prejudice to their king, who, by his birth, had a better right to the regency of France, than the then Regent had. But after their fleet was destroyed by the squadron we sent to the Mediterranean, and the invasion they intended against us, disappointed, they saw they could do us no prejudice, and that we might ruin them, by cutting off their correspondence with their dominions in America, or by sending a fleet with a few troops to ravage those dominions. The case is now the same, they will not so much as attempt to invade us, unless they expect a powerful assistance from our own people; and they can no other way do us any considerable damage: whereas we may ruin them, without employing above 5 or 6,000 land-forces in any expedition we undertake against them; and if 5 or 6,000 be sufficient for that purpose, it would be madness in us to put ourselves to the expence of sending 8 or 10,000 upon any such expedition.

But we are likewise, it seems, my Lords, in danger of plots and conspiracies at home, and a numerous Standing Army is the only method for preventing them. My Lords, I neither think we are in danger of plots or conspiracies, nor do I think a numerous Standing Army the proper method to prevent them. In former times, when there was a powerful party in the kingdom that was really disaffected, a Standing Army might be necessary for preventing their attempts; though even then, it was not necessary for preventing their success; but now, whatever dissatisfaction there may be among the people, there is no disaffection. There

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may, indeed, be still some old men amongst us, who, through pride and obstinacy, adhere to the exploded principles of passive obedience and non-resistance; but all the rest of our fellow-subjects are convinced of the monstrous absurdity of such doctrines. They all see the beauty of revolution principles: they know that such principles only can preserve our liberties, and render us a glorious people. This is now so well and so universally understood, that I do not believe there are three young Jacobites in the kingdom; and the few old who are still alive, have by experience been made so cautious, that there is no danger of their engaging in any desperate attempt.

From hence, my Lords, it must appear, we can be in no danger from disaffection; but upon the present question, which has so often been a question in this House, I find disaffection and dissatisfaction are usually confounded, though they are in themselves very different, and proceed from different causes. Disaffection proceeds from principles that are inconsistent with our constitution, and can seldom be cured but by the death of those that are tainted with such principles. Dissatisfaction proceeds from our government's pursuing wrong measures, and may, nay must be cured by a change of measures. I shall grant there is at present a most universal dissatisfaction among the people; and that dissatisfaction, I am convinced, proceeds chiefly from our having so long kept up such a numerous army. All those who are of revolution principles, must be dissatisfied with a measure, which is so directly contrary to the principles they profess; for it is ridiculous to preach up the doctrine of resistance, and at the same time provide the government with such an Army as will be able to prevent or defeat any resistance the people can make. Reduce your Army therefore, and those who are now dissatisfied will become your most affectionate and most faithful friends. But what will be the consequence of a contrary measure? If you admit that the discontent or dissatisfaction of the people makes it necessary to keep up a numerous Standing Army, that Army, as it is the effect, so it will be the cause of dissatisfaction, and will be every year begetting its own necessity. The longer you keep it up, the more you must increase it; and the more you increase it, the more you will encrease the dissatisfaction of the people; so that by endeavouring to prevent danger, you will bring it upon you; by endeavouring to add to your strength, you will encrease your weakness.

The most proper method, therefore, for preventing danger from the dissatisfaction of the people, is to begin to diminish your Army. Let us in this, my Lords, follow the example of his late Majesty, who, in the year 1718, made a great reduction of his Army, notwithstanding the war he was then engaged in with Spain, notwithstanding the many friends the Pretender had then in the kingdom, many more than he can be supposed to have at present. By that reduction, and the speech his Majesty made upon that occasion, he certainly gained the hearts of his people, and thereby added more to the strength of his government, and security of his crown, than if he had added 10,000 men to his Army.

A numerous Standing Army, may, it is true, my Lords, prevent plots and conspiracies among a dispirited, a disarmed and dastardly people; but, does that prevent plots and conspiracies among those of the Army? No, my Lords, in all countries, where such Armies have been long kept up, we find plots and conspiracies against the government more frequent and fatal, than in countries which have no Standing Armies. The plot called the bishop of Rochester's, was so far from being founded upon the smallness of our Army, that those conspirators, if they had any concerted plot, trusted chiefly to the army for the execution of their design. It was by means of the friends they imagined they could make among the common soldiers, that they were to seize upon the Tower of London, and to overturn our government, as it were, in an instant. Their plot, it is true, did not meet with any success; and it is no wonder, considering the low and improper tools that were concerned; but, I may now prophesy, that, if we keep up for many years longer, such a numerous Army as we have at present, some such plot will at last come to be executed; for if the guards only here about London should mutiny, at a time, when the people are generally dissatisfied with the government, they might, perhaps, bring about as quick, and as thorough a revolution in this kingdom, as ever was brought about in Turkey, by the Janizaries at Constantinople.

I think, I have now shewn, my Lords, that we are at present in no real danger of having the present tranquillity in Europe disturbed, or of having our own tranquil-

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lity disturbed either by invasions or insurrections; I think, I have shewn, that the keeping up of a numerous Standing Army, is the most improper method we can take, for preventing or guarding against any of those dangers; and, I hope, I have shewn, that the keeping up of such an Army, will always be of dangerous consequence to our liberties and constitution. To pretend, that our liberties can be in no danger from our Army, because it is commanded by gentlemen of the best families and fortunes in the kingdom, is an argument I am surprised to hear made use of; for, our liberties ought to depend upon our constitution, and not upon the honour of the gentlemen of our Army. I can, it is true, depend upon the honour of those who are, at present, the officers of our army; but, my dependence is not founded upon their being gentlemen of family or fortune: it is founded upon their personal characters only. I have the honour to be acquainted with many of the chief officers of our Army: I know their honour, and the regard they have for the liberties of their country; and, upon that knowledge, I can depend. If I were not acquainted with them, I should have but little regard to their being gentlemen of family or fortune: for, in all countries where arbitrary power has been established, many gentlemen of the best families and fortunes, have, through fear or ambition, become the tools of ministers, and have assisted or suffered them to sacrifice the liberties of their country.

For this reason, my Lords, I can depend only upon the personal characters of officers; and, even this would be but a precarious dependence, if I did not likewise depend upon his present Majesty's wisdom and goodness; for, as all the gentlemen of honour in the army, may at the pleasure of the crown be dismissed, and proper tools put in their room, the personal characters of those who are the officers of our army, can furnish no man with any certain security or dependence. But I am fully convinced, no such thing will, or can be done, during his present Majesty's reign: while these kingdoms are blessed with a continuance of his reign, I am sure, he will neither attempt, nor allow any of his ministers to attempt, to make a bad use of our army, were it much more numerous than it is; and yet, my Lords, I must bemoan, because I cannot account for, some things that have lately happened: some gentlemen have been lately turned out of the army, without having had any crime so much as alledged against them; gentlemen who, to the merit of long and faithful services, have added the right and title of purchase. These things, I say, I cannot account for. His Majesty had certainly good reasons for what he did; but, the knowledge I have of the gentlemen, and the regard I have for them, oblige me to think, that those reasons were founded on misrepresentation; and such accidents give me the greater concern, because, when officers of the army are dismissed without any cause assigned, the world are apt to judge, it was not for their vices, but for their virtues. These late examples give me terrible apprehensions of what may happen in some future reign; and therefore, I must think, it is high time for us to begin to reduce our army.

Lord *Hinton* rose and said:

My Lords; Considering how often the affair now before us, has been debated in this House, I am surprized, that those who speak upon one side of the question, should still continue to make use of those arguments, which have been so often shewn to be built upon a wrong foundation. They always suppose, that the keeping up a military force is a late encroachment upon our constitution, and inconsistent with the liberties of the people. This supposition they take for granted, and upon this they found most of the arguments they make use of, in favour of the reduction they propose. Now, I can neither grant, that the keeping up of a military force is a late encroachment, or any encroachment upon our constitution; nor can I grant, that it is inconsistent with the liberties of the people; for in this country it has always been the custom, in all countries it is necessary, to have some sort of military force, upon which the people can depend, not only for defending them against foreign invasions, but for enabling the civil magistrate to execute the laws of the society, against great and powerful offenders.

This military force, my Lords, which I say is necessary in every country, may consist in their militia, or it may consist in a body of regular troops kept in continual pay; but whatever it consists in, it must be such a one as may be depended on, for the two purposes I have mentioned; therefore when a society finds it cannot trust to its militia, a body of regular troops must

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necessarily be kept in continual pay; and that which is absolutely necessary for the safety of the people, cannot be an encroachment upon our constitution, or inconsistent with the liberties of the people. In former times, when none of our neighbours kept any regular troops in pay, and when our militia, and those possessed of military fees or tenures, were all bred up to military discipline, and provided with proper arms for the defence of their country, as well as themselves, we could depend upon our militia; but of late years our neighbours have all begun to keep large bodies of regular troops in continual pay, and our people have applied themselves so much to arts and industry, that they have not time to breed themselves up to military discipline, nor will they be at the expence of providing themselves with arms; therefore we can now put no trust or confidence in our militia, either for defending us against foreign invasions, or for enabling the civil magistrate to execute our laws against powerful offenders; and for this reason we are now, and have been for some years, under a necessity of keeping up a large body of regular troops in continual pay; which body of regular troops must always bear some proportion to the numbers of regular troops, with which we may at any time be invaded, and to the numbers of those who, we have reason to apprehend, want only an opportunity for rising in arms against the government, and laws of their country.

Thus it appears, my Lords, that the keeping up a body of regular troops is no late encroachment upon our constitution: it is only an alteration we have been obliged to make, with respect to that military force which we must always have, for defending us against foreign invasions, and domestic offenders. And that the keeping up of a body of regular troops is not inconsistent with the liberties of the people, must appear, I think, not only from experience, but from its having been so long and so often agreed to by parliament; for, from an experience of so many years standing, I should think that some proofs or tokens of this pretended inconsistency would have become evident, at least I must think, that the signs or symptoms of this inconsistency, if there had been any such thing, could not so long have escaped the judgment and penetration of parliament; and whatever some Lords may be pleased to think of our parliaments since the Revolution, yet I must say, I have so good an opinion of their honour, and regard for their country, that I am convinced no one of them would have agreed to the keeping up a body of regular troops, if they had thought it inconsistent with the liberties of the people.

But though I do not think that the keeping up a body of regular troops is in itself inconsistent with the liberties of the people, yet, my Lords, I shall readily grant, that a Standing Army, not under the annual check of parliament, might be so modelled as to make it a proper instrument for overturning the liberties of the people. It is not the army that is of any dangerous consequence to our liberties, but it is the use that may be made of the army, after proper care has been taken to fill it with such men, as may be fit for the worst use that can be made of an army. This is the only danger we can be exposed to by the keeping up of an army: this is a danger we ought to have a watchful eye upon; and this danger we may easily guard against, or prevent, as long as our army is kept up by an annual Bill for that purpose; which shews the difference between an army kept up by an annual Bill, and an army kept up by a perpetual law, so clearly, that I am surprized to hear it said, they are both Standing Armies, and equally dangerous to our constitution. Whilst recourse must be annually had to parliament for a new law for keeping up our army, it will always be in the power of parliament to dissolve that army, by refusing their authority for keeping it up, in case any attempt should be made towards modelling that army, so as to make it fit for bad purposes; or they may throw in such regulations into the law for keeping it up, as must prevent all such attempts for the future; whereas, if our army should be once established by a perpetual law, it would be out of the power of parliament either to dissolve the army, or to provide against such attempts: it would be then properly a Standing Army; for, I think, the army ought always to take its appellation from the law or custom by which it is kept up. Those laws or customs which are designed to be perpetual, we generally call the standing laws or customs of a country; but I never yet heard an annual law called a standing law, nor would it deserve that name, though it should be annually agreed to for a whole century together; and for the same reason, I think, that as long as our army is kept up by an annual law, it can never be properly called a Standing Army.

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I shall agree, my Lords, that no greater army ought ever to be kept up than the present necessity requires; but this does not proceed from the danger, but from the expence: and because of the expence, I should be fond of agreeing to a reduction, if our affairs at home or abroad could admit of it; but I shall never be for exposing the peace of my country, and the safety of my fellow subjects, to invasions and insurrections, for the sake of saving the expence of keeping up 5 or 6,000 regular troops. Therefore, considering the great number of regular troops kept up by every one of our neighbours, and the present universal degeneracy and neglect among our people, with respect to arms and military discipline, I shall always be extremely cautious of agreeing to any reduction, unless I think we are in a state, not only of the most profound tranquillity, but of the most certain and apparent security; which I shall never think, as long as it requires so much art, and such a power of eloquence, as the noble lords, who have spoke upon the other side of the question, have made use of, for shewing that this is our happy state at present.

The very question now under our consideration, my Lords, must convince us, that we shall always be under a necessity of keeping up some certain number of regular troops; for the noble lord who made the motion, and the noble lord who has spoke in favour of it, have endeavoured to shew, that we are now in as great tranquillity and security, as we can ever hereafter be supposed to be in; from whence I must conclude, that even they are, and, indeed, every gentleman must be of opinion, that it will always be necessary for us to keep some regular troops in pay. This, I say, my Lords, is a necessty we must always be under, as long as the far greatest part of our people apply themselves so much to arts and industry, as to neglect entirely the breeding themselves up to arms and military discipline; and this will always be our case, as long as we are an industrious, trading, and consequently a rich people: for from all histories we may observe, that the most warlike people have generally been the most idle, and of course the most destitute of riches. That military force, therefore, which is necessary for protecting us against our foreign and domestic enemies, must, while we remain in our present circumstances, consist in the regular troops we keep in continual pay; and the number of those troops ought always, as I have said, to be in proportion to the danger we happen to be in at the time. As to the danger we are now in from foreign enemies, I shall freely own, my Lords, that, considering our superiority at sea, if we were in no danger from domestic enemies, a less number of regular troops than we have at present, might be sufficient to guard us against invasions; because a less number would be able to defeat any invasion, that could be made upon us suddenly and unawares, if we were sure they would not be joined by any great number of our own people; therefore, I think it unnecessary for me to endeavour to answer these arguments, the noble lords have made use of, for shewing that we are at present in no danger from abroad: I shall endeavour to answer those arguments only, which they have made use of, for shewing, that we are in no present danger from our domestic enemies; and, if I can shew that we are now in some danger from our domestic foes, I must observe, that while we are so, we can never be in an absolute security against foreign danger; for that security which is founded upon the seeming resolutions of foreign princes, or the serene countenance of foreign courts, is a security we ought never to depend on.

My Lords, it is the danger we are in from our domestic enemies, that makes me against a reduction of our army; it is this that enhances every foreign danger we can apprehend, and makes that seem probable which would otherwise be impossible. The noble lord, who spoke last, was pleased to make a distinction between disaffection and dissatisfaction, which at other times, or under other governments, might be a just distinction; but, I cannot allow, that it is applicable to our people under the present government. When a government is pursuing wrong measures, when those in power are grasping at more than they ought to have by our constitution, or committing acts of violence and oppression, the people have reason to be dissatisfied; and in that case there is no removing the dissatisfaction, but by a change of measures, and bringing those to condign punishment, who were the authors of that dissatisfaction: But under our present government, no measures have been pursued, but what have been approved of by parliament; no encroachments have been made upon the liberties of the people; no acts of fraud or oppression have been committed, or at least none such have been

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patronized or countenanced by our government: therefore, if there be any amongst us that appear discontented, it must proceed from disaffection, or from private resentment, perhaps from a resentment founded upon their having been refused, what it would have been imprudent or unjust in our government to have granted, or upon their not being indulged in things that are inconsistent with our constitution, or with the peace and happiness of society; and that discontent which proceeds from such a resentment, or indeed, from any resentment of a private nature, I cannot call by so soft a name as that of dissatisfaction: I must call it sedition; and the only way of guarding against sedition, is to enable our government to prevent its being in the power of the seditious to do mischief. As a certain number of regular troops must be kept up; as no number of regular troops kept up according to our present method can be of dangerous consequence to our constitution, or in the least contrary to revolution principles; and, as no greater number of such troops has ever been kept up, than what was thought necessary by both Houses of Parliament; therefore, the keeping up of such a numerous army, could never afford matter of discontent to any man, who has nothing in view, but the good of his country, and the preservation of our happy establishment.

If there were no discontents in the nation, but what proceeded from a just dissatisfaction, I am sure there could be none, and, in that case, I should be for the reduction proposed; but, my Lords, there are great and general murmurings and discontents in the nation, and all those murmurings and discontents proceed originally, I believe, from disaffection and sedition. It is the disaffected and the seditious, my Lords, that magnify every accidental misfortune we meet with, that misrepresent the most prudent measures the government can take, and that instill into the minds of the people such notions of liberty, as are inconsistent with society. Power, I shall grant, my Lords, is apt to exceed its bounds, and may deviate into oppression; but I hope it will be granted, that liberty is likewise apt to exceed its just bounds, and may deviate into licentiousness. When the former happens to be the case, it is then high time to think of clipping the wings of those in power, by reducing our army; but when the latter happens to be our case, will any man say it is then a proper time to tie up the hands of those in power, or to weaken the only effectual curb our government has for restraining the licentious? this is our unfortunate case at present: by the audaciousness of the disaffected and the seditious, and by the lenity of our laws, as well as of those in power, there is such a spirit of licentiousness spread among the lowermost sort of our people, that I believe, nothing could command their obedience to the laws of their country, but the regular troops we keep in pay; and when the people are ripe for an insurrection, who knows but some foreign power may, at unawares, throw in a few troops amongst us, in order to set that spirit in a flame, which is now smothered by our having a sufficient number of regular troops in every corner?

I hope, my Lords, I need not take up your time with giving you any examples of the licentiousness, that now reigns among the lowermost sort of our people. The great countenance and protection the smugglers meet with, in every corner of the kingdom, from the common people, and I wish I could not say, from some of a superior rank; the many mobs and riots that have happened on account of turnpikes; and the unaccountable opposition that has been made to one of the best and most necessary laws that ever was enacted, I mean the law against retailing spirituous liquors; must convince every man, that there is such a spirit of licentiousness among the vulgar, as can neither be corrected or restrained by the civil power, without the assistance of regular troops; and as this spirit of mobbing is spread over the whole kingdom, as mobs and tumults are always most hurtful and most dangerous to the best sorts of people, and to the most worthy and most diligent magistrates, they might do infinite and irreparable damage, if there were not a body of regular troops, in or near every place where any such can happen: as these troops are always near at hand, and ready to march to the assistance of the civil magistrate, though they cannot entirely prevent mobs, yet it is certain they render them less frequent, and prevent their doing the mischief they would otherwise do. This is an advantage now enjoyed in every part of the kingdom; whereas, if we make the reduction proposed, we may still perhaps enjoy it here about London, but a great many country places must be left entirely destitute of troops, and consequently the

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better sort of people left a prey to a licentious and unruly populace.

For this reason, my Lords, if there were no other, I must be against making a reduction of our army, and shall be against it, as long as the present licentious spirit prevails among the meaner sort of our people; for whatever regard former mobs may have shewn to the illustrious family upon the throne, whatever regard they may have shewn to the lives or properties of their fellow-subjects, as they have been, and always will be, spirited up by, and much under the government of the disaffected and seditious, if any future mob should come to such a head as to deserve the name of an insurrection, I am afraid they would shew no great regard, either to the liberties or properties of their fellow-subjects, or to our present happy establishment; and therefore, if the present question had been moved by any gentleman of mean circumstances, or by one who could be suspected of disaffection or sedition, I should have answered him in the words of Cato to Julius Cæsar, on occasion of the Catiline conspiracy: 'Quasi 'vero mali, atque scelesti tantummodo in 'urbe, et non per totam Italiam sint; aut 'non ibi plus possit audacia, ubi ad defen-'dendum opes minores sunt. Quare vanum 'equidem hoc consilium est, si periculum 'ex illis metuit. Sin in tanto omnium 'metu solus non timet; eo magis refert, 'me mihi, atque vobis timere.'

I hope I have now shewn, my Lords, that we are at present in great danger from our domestic enemies, that this danger must always, while it lasts, render our security against foreign danger precarious, that we have no way of guarding against either of these dangers, but by keeping up a body of regular troops, and that the number we now keep up, is the least that can at present be supposed sufficient for this purpose. I know it may be said, that we have our militia to trust to, and that our militia will generally be sufficient to guard us against insurrections at home, and against all such invasions as can be made upon us from abroad. My Lords, there is no man has a better opinion than I have of the courage of our men in general; I know they have strength and agility superior to most of their neighbours, and courage sufficient for enabling them to make a proper use of their natural strength and agility; therefore, man to man, I could trust to them against any equal number of troops in the world; but personal courage, strength and agility, without military discipline, are of little signification in an army. If every man in your army does not know how to obey the word of command, in an exact and regular manner, in the day of battle, your army must go in confusion; and in such a case, the personal courage of the men does but increase the slaughter; for after an army is once put in confusion, the most courageous must trust to his heels for his safety, or die by the sword of the united force that attacks him. This is the cause of that inequality which has always been found between militia and regular troops; and for this reason, we can never depend upon our militia, when regular troops are brought against them. Even in the late rebellion, we found we could put no trust in our militia, though no regular troops were then brought against them. The militia, we know, did us little or no service, upon that occasion, in any part of the kingdom, which is a fact so notorious, that I am persuaded it will not be denied; but, if it were, it could easily be confirmed by a noble lord now present, who had the principal share in suppressing that rebellion.

From hence we may see, my Lords, that our militia is what we can put no trust in for defending us against invasions; and with regard to our defence against mobs and insurrections, I am sure, whilst the present spirit of licentiousness prevails, our militia can be of no service, because our militia is chiefly composed of that sort of men, who at present, instead of opposing, would probably join with any mob or insurrection that might happen. Then with respect to the execution of our laws against smugglers, destroyers of turnpikes, and retailers of spirituous liquors, I must desire your Lordships would consider, how it would be possible to prevent or punish any one of these grievances, if we had nothing but our militia to trust to. Can it be supposed that the militia of any county upon the sea-coast would oppose, much less venture their lives in apprehending smugglers; when it is well known, that there is hardly one man of mean circumstances in any of those counties, and of such your militia must always chiefly consist, but what is concerned, or has a brother, a son, or some near relation, or intimate friend, concerned in such practices? the case is the same with regard to those counties where the turnpikes have been destroyed, and will always be the same, I

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believe, in every county where such offences shall happen to be committed: and I am convinced no man expects, that our militia would protect one who had informed against a retailer of spirituous liquors, or that they would rescue him from the hands of a licentious and cruel mob: on the contrary, I believe, they would join with the mob, and would assist them in all the outrages and cruelties they commit upon such occasions. It would be impossible for the civil magistrate, or the officers of the militia, to command their obedience in any of the cases I have mentioned; for when the people in general are so licentious, as to contemn and despise the laws of their country, we cannot well expect, that our militia would shew any regard to the authority of a civil magistrate, or that they would obey the commands of their officers.

Thus, my Lords, I have shewn, that our militia cannot, at present, be depended on for defending us against invasions, insurrections, or tumults; nor for assisting the civil magistrate in the execution of our laws; but your lordships will perhaps say, that our militia may, by proper regulations and due care, be made as well acquainted with military discipline, as any regular troops, and that those laws, which are found to be disagreeable to the people in general, may be so altered, or such new laws made in their room, as may be so agreeable, that most men in the kingdom will concur in seeing them duly put in execution. My Lords, when such regulations are made, and are found to be effectual, it may be a good argument for reducing, perhaps disbanding, our regular troops; but, surely, the possibility of doing such things can be no argument for an immediate reduction. Whether they are possible or not, is what I shall not now take upon me to determine; but I have a great suspicion, that no regulations you can make will be found to be effectual for these purposes. As to the militia, I do not think you can ever get men to spend as much of their time, as is necessary for making and continuing themselves masters of military discipline, when they themselves see no necessity for so doing, unless you pay them for that part of their time they bestow in that way. If you pay them, it will cost you as much as the regular army you now maintain, and it will be as great a loss to the public, by the loss of their labour, during the time they are employed in military exercises; because, if you put your whole trust in your militia, you must have, at least, three times the number of the regular troops you now keep in daily pay. And then, with respect to the laws which are now found to be disagreeable, I am afraid no regulations you can make, will ever be agreable, if they are effectual for the end proposed; for few men, now-a-days, have so much regard for the public, as not to avoid paying those taxes, or imposts, which are necessary for the public service, as often as they can do it with safety; and therefore, most men will think those laws severe, that enforce the payment of such taxes, and will be apt to favour those who assist them in getting free from the payment of them, and to oppose the officers who are employed in collecting them. With regard to the retail of spirituous liquors, it is the same: the drinking of such liquors is now become the favourite vice of the meaner sort of people; and though it evidently tends to the destruction of their health, as well as their morals, yet, I believe, they will always find fault with, and oppose the execution of any law that effectually prevents their indulging themselves in this favourite vice. From all which I must conclude, that the best method of securing ourselves against all dangers of a foreign or domestic nature, and the best method for executing those laws which are necessary for the good of the public, is to keep such a number of regular troops in daily pay, as may be sufficient for these purposes, according to the circumstances we may happen to be in at the time.

This, my Lords, I confess, must always be an expence to the people, and must be greater or less according to the number of troops we keep in pay; therefore I shall always be for a reduction, when I think it can be made without subjecting the people to the danger of a much greater expence; but as I have observed, that reductions have generally been attended with invasions or insurrections; and as we are, upon such occasions, obliged not only to increase our own army, but to call in foreign auxiliaries, which puts the people to a much greater expence than they saved by the reduction, therefore, for the sake of the people, I shall never be for a reduction, when I think there is the least danger of an invasion or insurrection; and I must think we are in danger of both, when there is such a spirit of disaffection, or dissatisfaction, or sedition, call it which you will, as I find reigns in this nation at present

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But besides the expence of calling in foreign troops, I must take notice, my Lords, that if an army of our own subjects can be of any dangerous consequence to our constitution, I am sure an army of foreign troops must be much more so. This is so true, that I believe no one instance can be shewn, where the liberties of a free people have been effectually and irretrievably overturned, without the assistance of some foreign auxiliaries; for though it has sometimes happened, that the liberties of a country have been encroached on, or for a time suspended, by an army of their own people, yet it has generally, I may say always, been found, that that very army restored their liberties as soon as they became sensible of the injury they had done their country; therefore, I hope, all those who are real friends to the constitution, and liberties of this kingdom, will be against any measure, which may probably give our government a handle for calling in foreign troops to their assistance, and as in our present circumstances this may probably, in my opinion, be the consequence of reducing our army, therefore I am certain no lord, who thinks as I do, can give his assent to it.

Whilst our army, my Lord, is composed wholly of our own countrymen, commanded by gentlemen of the best families and fortunes in the kingdom, and kept up only from year to year, by authority of parliament, it can never be of dangerous consequence to our constitution, nor can it be so garbled as to be made to serve any bad purposes. If any such attempts should be made, we shall always have it in our power to put a stop to such practices before they can produce the designed effect; but, I hope, the removing of two or three gentlemen from their posts in the army, and putting others of as good and as undoubted characters in their room, will not be called garbling the army; and, therefore, I am surprized to hear any late accidents of this kind taken notice of in this debate; for while you preserve your constitution, you must leave to the crown the absolute disposal of all commissions in the army; and if his Majesty has lately, in a few instances, made use of this power, he had certainly good reasons for what he did: he is no way obliged to give an account of his reasons to this House, nor have we any right to enquire into them. We ought not so much as to take the least notice of such removes, unless a considerable number of such had been made, and men of bad characters put in the place of those that had been removed. Then, indeed, it might be proper to think, not only of a reduction, but of a dissolution of our army; but as no such thing can now be complained of, or suspected, as our army is, I think, the only security upon which our present tranquillity depends, and as it is, I think, but barely sufficient for preserving that tranquillity, therefore I am against our making any reduction.

The Earl of *Westmoreland* said:

My Lords; The only difference, I find, that has been assigned, and, indeed, the only difference that can be assigned, between an Army kept up by a perpetual law, and an Army kept up by an annual Bill, is, that, in the latter case, we may refuse our consent to the continuing of the Army, if it should, at any time, appear, that the keeping up of such an army is unnecessary, or if it should, at any time, appear, that some attempts have been made to make a bad use of that Army. Now, my Lords, I think, one of the worst uses that can be made of an Army, is, to make gentlemen's commissions in the Army serve as a handle for subjecting them to the arbitrary will of a court, or favourite minister; because if such an use should ever be made of your Army, it will of course contribute not a little towards destroying the only difference that can be assigned, between an Army kept up by a perpetual law, and an Army kept up by an annual Bill. If an ambitious or guilty minister should get it signified to all those gentlemen of the Army, who have the honour to be members of either House of Parliament, that if they did not vote according to his directions, they should be turned out of the Army, and their subsistence taken from them; if he should even make some examples, in order to shew that he is in earnest; I must ask gentlemen, if this would not greatly tend towards giving that minister a majority, upon which he could depend, in each House of Parliament? If he should go farther; if he should get it signified to all the officers of the Army, from the corporal to the general, that they should be disappointed in their preferment, unless they made use of all their interest at elections, in every corner where they could procure any, in favour of the candidate recommended to them by him; and if he should, in this likewise, make some examples, for shewing that he is in earnest; would not

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this contribute greatly towards his being always able to procure a majority of his own creatures to be chosen members of the House of Commons? And if this should ever happen to be our case, I should be glad to know the difference between an Army kept up at the pleasure of the Crown, by a perpetual law, and an Army kept up at the pleasure of the Crown, by an annual Bill, to be passed in a Parliament, that would never refuse to do any thing the court or minister should desire.

I am far from saying, my Lords, that any such attempts, or any such examples, have been lately made: I have stated the case in this light, only to examine that doctrine, which has been laid down by the noble lord that spoke last. The noble lord was pleased to tell us, that the absolute disposal of all Commissions in the Army is, by our constitution, vested in the Crown: that when the King makes any extraordinary use of this power, he is not obliged to give his reasons, nor have we any right to enquire into them; and that when any removes are made, they ought not to be so much as mentioned in this House, unless a great number should be made at a time, and persons of a bad character put in the room of those turned out. I am glad his lordship was pleased to leave us some power of controul; but, I shall presently shew, that the power he has left us, if we had no greater, would be altogether ineffectual for preventing the mischief I have mentioned. Now, my Lords, I shall grant, that by the present establishment of the Army, his Majesty has an absolute power to dispose of all commissions in the Army, and to turn gentlemen out of their commissions, whenever he has a mind. This is, at present, one of the prerogatives of the Crown; but this, like all other prerogatives, though it be absolute, it is not arbitrary: it is subject to the controul of Parliament; and, if any King of this realm should make a bad use of this prerogative, but in one instance, the Parliament may enquire into it, and may send those that advised it, not only to the Tower, but to Tower-hill. To tell us that we have no power to enquire into the reasons of any removes, unless a great number should be made at a time, and persons of a bad character put in the room of those turned out, is to tell us, we have no power at all; for, if a minister should dare to make a great number of removes at a time, he would take care to make such a number, as should put it out of the power of Parliament to take notice of any of them; and as to the character of the persons put in the room of those turned out, a man may be of a good character in private life; he may even be of a good character as a soldier, and yet may not have resolution enough to risk his commission, by voting in Parliament, or giving his interest at elections, contrary to the directions, or known sentiments of a minister; especially, if he be a man who has not otherwise a competent subsistence, according to that method of living he had led himself into; and still more especially, if it be at a time, when he sees several recent examples for convincing him that his commission is at stake. Therefore, if we had, in this respect, no greater power than what the noble lord has been pleased to vouchsafe, the Army might be made a handle, for procuring to a minister a continual and certain majority, in both Houses of Parliament, without its being in the power of Parliament to prevent, or put a stop to any such attempts.

In this country, in all countries, nay, my Lords, in the most arbitrary countries, a gentleman's commission in the Army is reckoned a provision for life; and it is reasonable it should be so; for when a gentleman, from his youth, attaches himself to the business of a soldier, and for that end neglects every other business by which he might have got a livelihood, or advanced himself in the world, the commission he acquires by his conduct and courage, or by his long and faithful services, perhaps with the loss of a great deal of his blood, and even some of his limbs, ought to be a provision for life. It is a property which ought not, which cannot justly be taken from him, unless he forfeits it by some civil or military crime. And if to this we add the title of purchase, if a gentleman bestows the fortune given him by his parents or relations, upon the purchase of a commission, and makes that purchase with the connivance, perhaps in some measure with the countenance of the Court, surely it is an additional argument for shewing, that his commission ought not to be taken from him at the arbitrary will of a court, or upon the false and sly insinuations of a favourite minister. This would be making an unjust use of the prerogative of the Crown, and consequently an abuse which ought to be enquired into by this House. But if an officer's commission should be taken from him for not voting in Parliament, or at

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elections, according to the directions he may privately receive from a minister, or for not shewing a mean and dishonourable complaisance for a court-favourite, it would be an abuse of prerogative, that would be not only unjust but dangerous; and therefore, would more highly deserve the notice of this House.

My Lords, it is impossible to suppose, that any gentleman ever will be turned out of his commission in the Army without any reason, secret or revealed; and therefore, when a gentleman of good character, both in his civil and military capacity, is dismissed, without any reason assigned, the world will suppose it was for reasons that cannot be owned: they will suppose it was for some of the reasons I have mentioned: they will from thence conclude, that this House ought to enquire into it; and if we do not, the reproach will lie at our door; for which reason, if we have a due regard to our own characters, which must always depend upon the opinion of the public, we ought to enquire into every such removal or dismission. If it was made upon just grounds, we shall do justice to the person injured, and vindicate our own characters by punishing the advisers; if it was made upon just grounds, we shall undeceive the people, and vindicate the crown.

As to the late removes that have been made, whether we ought to enquire into all or any of them, is what I shall not take upon me to determine; but, my Lords, whatever may have been the true reasons, they have raised, I am sure they must raise, a general suspicion among the people. Some gentlemen have lately been turned out of their commissions in the army, who cannot be so much as suspected of disaffection, because they have ventured their lives for the support of our present establishment; nor can they be accused of having ever been guilty of the least fault, or of having been liable to the least reproach, either in their civil or military capacity, so far at least as is publicly known; and yet their commissions in the army, their military property, I may call it, has been taken from them, without any trial, without any reason assigned. His Majesty had certainly good reasons for what he did; but, as his Majesty must often hear by means of other people's ears, and see by means of other people's eyes, the world will, I am afraid, conclude, that his Majesty's reasons and those of some of his ministers were extremely different. They will conclude, that his Majesty's reasons were founded upon misrepresentations, which it is impossible for him to discover, but which might be easily discovered, if they were freely and impartially enquired into in a parliamentary way.

I know, my Lords, that what I say upon this occasion will be reported in another place, not in the manner I speak it, for if it were, I could not, from any thing I have said, or shall say, incur the least displeasure; but it will be misrepresented, and the most invidious turn given to it that can be invented. I have been already served so: what I said upon a certain occasion last session, was misrepresented in another place. This is the treatment, my Lords, I have already met with; but I despise, I shall always despise such treatment: while I have the honour to sit here, I shall upon all occasions declare my sentiments decently, but freely, let the consequence be what it will. It is a duty I owe to my country: it is a duty I owe to my king; and it is the business of a soldier to die, rather than to desert, or neglect his duty.

To tell us, my Lords, that the crown, or the ministers of the crown; for in this House whatever we say of the crown, must be supposed to be meant of the ministers of the crown; therefore, I say, to tell us that the ministers of the crown may dispose of commissions in the army, and may turn gentlemen out of their commissions, without any effectual controul from parliament, is a most dangerous doctrine. If this were established as an infallible rule, it is certain that voting either at elections or in parliament, contrary to the directions given by a chief minister, would always be reckoned, and would be a good reason for turning a gentleman out of his commission: it would be looked on by all ministers as mutiny; and I do not know but in some future session, a clause might be added to the Bill now before us, for punishing it as such. But without such a clause, the doctrine now advanced would be sufficient for making most of the officers of our army downright slaves to the ministers of the crown; for to an officer who has no other dependence, the loss of his commission is worse than the loss of his life. Without subjecting the officers of our army to the danger of being turned out of ther commissions, at the arbitrary will of a minister, they are, by other means, already too much exposed to his resentment. There are many other me-

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thods, by which a minister may make an officer suffer besides that of taking his commission from him. I have myself, my Lords, experienced many inconveniencies from my not having had the good fortune, while I was in the army, of being in the good graces of a minister. Even at the treasury, there are methods for stopping and retarding the payment of that money which is due to an officer, if he happens to be out of favour with the chief man at the board. Prosecutions and vexatious suits of several kinds may be set up against him. Such things, I say, may be done, and, I say so, because I know it by experience.

If our army, my Lords, were properly regulated, and both officer and soldier rendered as independent of ministers as other subjects are, I should perhaps find no fault with keeping it up, were it more numerous than it is; but from what I have said, it will appear, that, as long as it continues under its present regulation, it will always be extremely dangerous for any officer to incur the displeasure of a minister; and as some late precedents may perhaps make officers believe, that their commissions depend upon a tenure very different from what they were formerly thought to depend on, therefore, unless some new regulations are made, I shall always think a numerous Standing Army of the most dangerous consequence to our liberties; for which reason I shall always be for reducing it as much as possible; and as no danger nor inconvenience can ensue from the reduction now proposed, I think it ought to be agreed to.

Lord *Bathurst:*

My Lords; I was a little surprised to hear the least objection made against the regularity of any thing said by the noble lord that spoke last. In my opinion, he neither said, nor attempted to say any thing but what was extremely proper, and what ought to have great weight in this debate; for if any means have been lately made use of, for making the officers of our army subservient to an administration, both in their civil and military capacity, it is high time for us to return to our antient constitution, which never admitted of a Standing Army's being kept up within this kingdom in time of peace. The noble lord has, it is true, come but lately into this House; but he came, my Lords, by a very antient title, which makes his case very different from those who come by a new title; for as those who come by an old title, have, from their infancy, a prospect of coming here, they may be supposed to have studied our methods of proceeding from their infancy; whereas no such supposition can be made in favour of those who come in by a new title. Accordingly the noble lord, ever since he took his place, and particularly upon this occasion, has shewn us, that he is perfectly acquainted with our forms and methods of proceeding. He began his discourse, by representing to us the danger of making gentlemen's commissions in the army serve as a handle for subjecting them to the arbitrary will of a minister. He shewed us that this would be the case, if we should allow their commissions to be made precarious; and if he knew any other methods that might be used, or that had been used, for rendering the officers of our army subservient to an administration; was there any thing more proper, was there any thing more necessary, to be laid before us on this occasion? My Lords, what he said upon this subject was so far from being improper, that, I think, it highly deserves our consideration: it ought to be enquired into, before we give our opinion upon the present question, or at least before we pass the Bill now under our consideration; for if any methods have been, or can be, made use of, for making an officer suffer, on account of what he says in this House, or on account of his not being in the good graces of a minister, we ought either to disband our whole army, or, in this Bill, we ought to make such regulations as may prevent such practices for the future.

After having said thus much with respect to order, I must beg leave, my Lords, to take notice of some things that fell from a noble lord who spoke last but one. His lordship was pleased to say, that in every country there must be a military force kept, of some kind or other; that the military force kept up, ought to be sufficient for defending the people against invasions and insurrections; and that this military force must now, in this kingdom, always consist in a Standing mercenary Army, because of the disuse of arms and military discipline among the rest of our people. I shall grant, my Lords, that every country ought to be provided with a military force, of some kind or other, sufficient for protecting the country against foreign invasions, and the government against factious or seditious insurrections; but I am far from thinking it necessary to have that military force modelled into a mercenary

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Standing Army; and if it were, I am far from thinking, that Army ought to be so modelled, as to be under a slavish subjection to the crown, or to any one man in the country.

Suppose, my Lords, it were necessary for us to keep a Standing Army always in pay: suppose we could contrive no other sort of military force, upon which we could depend, for preserving us from invasions and insurrections; yet I can see no reason for having that Army under such regulations, as must keep both officers and soldiers under a sort of slavish submission to the crown, and consequently to him who happens to be the favourite minister at the time; which will be the certain consequence, if it should be once established as a maxim, that officers may be preferred and even turned out of their commissions, at the arbitrary will of a minister. This gives a man such an arbitrary power over the army, that no society ought to grant it even in time of war; for it was this that enabled several Roman generals to make use of the armies of their country for conquering their country, and at last enabled Julius Cæsar, by the same means, to subdue the liberties of his country. But to grant such a power in time of peace, is not only quite unnecessary, but absolutely inconsistent with the liberties of a free people; for, as that Army must in some measure be slaves to the crown, or rather to the ministers of the crown; it is not to be expected that they will long continue to have a regard for the liberties of the people; and if the Army be sufficient for protecting the people, they must be sufficient for subduing and enslaving the people, as soon as their superiors shall give them the word of command.

Our liberties and properties, my Lords, depend upon the laws of our country, but it is by the military force of the country only, that those laws can be made effectual; and if ever that military force should happen to fall under an absolute dependence upon those who have a mind to render our liberties and properties precarious, our laws will be of no significance. Our liberties and properties therefore depend, at least, as much upon the officers of our army, as they can do upon our judges. By experience we know how precarious our liberties and properties were, whilst our judges depended upon the arbitrary will of ministers; can we expect they will be secure, as long as the officers of our army are subject to the same sort of mean and slavish dependence? By the act of settlement we took care to prevent, for the future, our judges from being under any such dependence, by enacting that their commissions should be '*quam diu se bene gesserint*,' and that their salaries should be established; and if we must for ever hereafter keep up a certain number of regular troops, which I shall always call a Standing Army, I think it is absolutely necessary for us to make the same regulation with respect to the officers of that Army. This, I say, my Lords, is absolutely necessary for the preservation of our liberties and properties; and, if ever we do make such a regulation, I hope it will be made in such a manner, as to put it out of the power of our judges to weaken it, by any interpretation they can put upon it; for as they have, by their interpretation, rendered their own commissions more precarious than the law, I am convinced, designed them, we can hardly expect they will shew a greater regard for the commissions of the officers of our army.

Whilst the commission of every officer of our army, lies at the mercy of an ambitious prince or guilty minister, (and how many princes can be said not to be ambitious, how many ministers can be said to be innocent?) I say, my Lords, whilst this is the case, we are exposed to the danger of having our liberties and properties taken from us, not only against law, but according to law; for as there are now, as there always must be a great many officers in both Houses of Parliament, we can hardly expect that they will all either think or vote freely, when they know, that the loss of their commissions must be the consequence of their thinking, or voting, contrary to the sentiments of the prime minister. If this were the case, I believe few of them would make an enquiry about the right or the wrong of any question; the only enquiry would be, whether such a lord, or such a member, seemed to approve of it; and the prince or minister would always take care to have a proper beacon in each House of Parliament, for directing his officers how to avoid those shoals, upon which their commissions might be ship-wrecked; by which means a guilty and rapacious minister might ride triumphant over our liberties and properties, or an ambitious prince might get such laws passed, as would render both precarious.

I must, upon this occasion, my Lords, in a particular manner, recommend the case

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of our officers to the consideration of the reverend bench. None of them, I am sure, would vote against their conscience for any consideration; but, I hope, they will consider what difficulties a reverend prelate would labour under, if it were in the power of a minister, to strip him of his temporalities, in case he should, upon any occasion, take upon him to differ in opinion from the minister, and vote according to his own conscience. Thank God! the prelates of our church are, by the law as it now stands, secured against being brought under such difficulties; and if they were not, I am persuaded they would, in such a case, despise every earthly consideration; but the officers of our army are, and always must be, but laymen; and therefore they can never pretend to have such a contempt for the vanities of this world.

The antient military force of this kingdom, my Lords, consisted in the bravery and discipline of our men in general, and the officers of our armies were such as neither depended upon the crown for their support, nor for their commands in the army: they were generally such as held their commands by their tenures, or such as were chosen by their respective counties. The chief command only belonged to the King, and even in that, he was always obliged to depute some person, who was not only a man of great fortune, but of a good character in his country: for, our armies, in those days, would not have submitted to the command of a man, who was suspected of being the mere tool of a court. It was by such armies that we defended ourselves against foreign invasions, it was by such armies that we defended ourselves against court-favourites, and thereby preserved our liberties. What we now call our militia, under the command of the king's lieutenants, is but a late invention; which was never authorized by parliament till after the Restoration, when every thing, that could any be pretended to as a prerogative of the crown, was agreed to and confirmed by parliament.

Our militia was then, it is true, my Lords, put under the absolute direction of the crown, but at the same time it was put under such regulations, as have made it as useless as it is harmless; which really seems to have been the design of some of those who were the contrivers of that scheme: they seem to have foreseen, that the militia they were then about to establish, would be useless, and therefore, the isles of Purbeck and Wight, which are the places most exposed to invasions, were excepted out of the act, and continued upon their ancient footing. Whether the establishing our militia in such a manner, as to render it useless, was contrived by the court, with a design to make Standing Armies necessary, or if it was contrived by the true lovers of liberty, because they could not stem the torrent, which was then so strong, for granting the King an absolute power over the militia, I shall not pretend to determine; but this I will pretend to foretell, that if the whole military force we provide for our defence against invasions and insurrections, be put under an absolute subjection to court-favourites, they may for some time defend us against invasions and insurrections, but we cannot expect that they, who are themselves slaves, will defend our liberties against the encroachments that may hereafter be made upon them by ministers and court-favourites. For this reason, if a Standing-Army be now the only military force we can trust to, and therefore a sort of military force which must always hereafter be kept subsisting, we ought to make it as independent as that military force was, which for many ages was the bulwark of our liberties and properties, against domestic as well as foreign invaders.

But I am far from thinking, my Lords, that it is necessary for us to keep up a Standing Army always in pay, or that we can contrive no military force, upon which we may depend for preserving us from invasions and insurrections. It is the keeping up of such an army that has made the disuse of arms, and neglect of military discipline, so general among our people. While you keep up such an army, it will be the business of courtiers, and of all those concerned in the army, to prevent the people's providing themselves with arms, or breeding themselves up to military discipline; whereas, if you disband your army, or a great part of it, not only our courtiers, but all those gentlemen, who are now concerned in the army, will be forced to join such measures, as may be effectual for encouraging all the men in the kingdom, or at least all freeholders, farmers, and substantial merchants and tradesmen, to provide themselves with arms, and to breed themselves up to military discipline. It is, in my opinion, not at all impossible, to make it as infamous for a man to be unprovided with arms, or un-

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acquainted with military discipline, as it is now for a gentleman to get the character of a notorious coward; nor would this interrupt or diminish the labour and industry of any man in the kingdom; for even the most industrious might make themselves thoroughly acquainted with the use of arms, and with military discipline, if they would but spend one half of that time in military discipline, if they would but spend one half of that time in military exercises, which they now throw away in idle and effeminate, or expensive and criminal diversions; and this method of passing away our leisure hours, might easily be introduced even among the vulgar, if our courtiers and men in authority should once begin to make this their practice, and that practice should be followed, as it certainly would, by all the nobility and gentry of the kingdom.

This custom or fashion, my Lords, might be regulated, and even enforced, by proper laws for that purpose; and by such methods the whole militia of the kingdom might, in a few years, be made as good soldiers as any regular mercenary troops that had never been in action; for even a regular army kept in continual pay, after a peace of 20 or 30 years standing, are properly nothing but a well disciplined militia; and upon the first rencounter will generally be found inferior to veteran troops, who have been bred to action, and enured to danger; but it has always been found, that, after a little experience, a well disciplined militia become more resolute and obstinate than mercenary troops, and for this reason they have always at last come off conquerors, as appears from the histories of all wars that have been carried on between militias on one side, and mercenary troops on the other. The Grecians carried on their wars against Persia, by means of their militia; and at last beat the numerous mercenary armies, and subdued the vast empire of Persia: the Romans carried on their wars against Carthage, by means of their militia; and at last beat the mercenary armies of Carthage, and destroyed that rich and populous city. But when the Romans, in order to support the arbitrary power of their emperors, began to put their whole trust in mercenary armies, their military glory soon began to decline; and at last the Goths and Vandals and other Northern nations, by means of their militia, drove before them the mercenary armies of Rome, and made that proud city submit to the yoke, which she had, in former times, by the same means, put upon a great part of the world.

From hence I must conclude, my Lords, that if ever the militia of one country proves inferior to the regular mercenary troops of another, it must proceed from some neglect of military discipline and exercises in the former, and not from the nature of things. It is to a neglect of this kind, that we ought chiefly to impute the great success Hannibal at first met with in Italy; for the best Roman historian takes notice, that their affairs were never in a more slothful and effeminate condition, than they were at the beginning of the second Punic war; and to the same sort of neglect we ought to impute the superiority, which regular mercenary troops are now found to have over the militia of every country in Europe; because, in all countries, where regular troops are kept in continual pay, the people will neglect to breed themselves up to arms and military discipline; and the government, especially if it be a monarchy, will industriously propagate that neglect. Therefore, the neglect of military discipline among our people, in this country, is so far from being an argument for keeping up our army, that it is a strong argument for disbanding it, and for our applying ourselves seriously towards reviving that warlike spirit among our people in general, which was in former ages not only our defence but our glory. How this is to be done, I shall not now pretend to determine; but several methods might be contrived for this purpose. We had formerly a Court of Chivalry, which as the learned Coke observes, had cognisance of all matters relating to arms or war. I do not know but that the reviving of that court, and putting it under proper regulations, might contribute to the reviving of that martial spirit, which formerly prevailed among our people in general: or instead of the Bill now before us, which regards only our standing army, we might have some sort of martial law to take place at certain times, or upon certain occasions, and at those times, or upon those occasions, to comprehend all the men in the kingdom fit to bear arms. These, or some such regulations, might in a short time make our militia as good as regular troops; but without example, no laws or regulations can ever be effectual; and those in authority will never set an example, as long as they have such an army as we have at present to trust to.

If all the men in the kingdom, or the

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greatest part of those who are fit for service, were as well disciplined, or but near as well disciplined and as well provided with arms, as our regular troops now are, it must be granted, my Lords, that such a kind of military force would be a better security against invasions and insurrections, as long as our government preserved the affections of the people, than any regular army we can keep up; and the assistance of our militia would then be as effectual for enabling the civil magistrate to execute any laws that ought to be made, as the assistance of regular troops can be supposed to be. For, even with respect to regular troops, if their commanding officer should order them to do what was disagreeable to a great majority of them, it would probably occasion a mutiny; the only difference therefore is, that where laws are to be executed by the militia, the government must take care to enact no laws, but such as are agreeable to the majority of the people; but where the laws are to be executed by a regular mercenary army, and the people rendered effeminate and disarmed, for that purpose, the government has no occasion to consider the inclinations of the people, they consult only the inclinations of their army. It is a strange doctrine in a free country, my Lords, to say, that because some laws have been enacted, or some things have been done, that are disagreeable to the people, therefore a numerous Standing Army ought to be kept up, in order to compel the people to submit. This is a doctrine, my Lords, I shall never approve of: even as to the drinking of gin, if it could be no way prevented but by a Standing Army, I should be for leaving the people in possession of that darling liquor, rather than attempt to bereave them of it by such means; for in that case, an army that could take gin from them, could likewise, and probably would, take their liberties from them also. But this is far from being the case: take but proper methods, and every man in the kingdom will assist you in preventing the immoderate use of that, or any other sort of pernicious liquor. The morals and habits of a people, my Lords, are to be corrected by wholesome advice and good example, not by severe precepts and rigorous punishments. Let the better sort refrain from the immoderate use of spirituous liquors, and the meaner sort soon will. But, I am afraid you have taken the contrary method: you seem to indulge the rich in excess, while you punish the poor for the most moderate use; like some Romish priests, who sell indulgences for the highest crimes to those that can purchase them, but damn the poor for the most venial offences.

If any laws have been made, my Lords, which, by experience, we find, cannot be executed, without the assistance of a numerous Standing Army, they must be altered, and other methods taken for accomplishing that, for which they were intended. Do not let us make the people slaves, in order to make them sober: do not let us ruin the people, for the sake of compelling them to pay their taxes, or to pay the turnpike-duties, which in some places, I believe, are more necessary for the support of luxury, than for the convenience of the poor. The keeping up of a Standing Army in time of peace is not only expensive, but has always been deemed inconsistent with liberty, and of the most dangerous consequence with respect to our present establishment. Mr. Trenchard, who, I believe, understood the nature of government in general, and of our constitution in particular, as well as any gentleman ever did, has left it as his opinion, "That the most likely way of restoring the Pretender, is maintaining a Standing Army to keep him out." And even that great man, lord Somers, who is supposed to have wrote against Mr. Trenchard upon that occasion, and who was, in king William's time, one of the chief advocates for a Standing Army, declares, "That any man who would pretend to give a jealousy of the nation to the King, and suggest that he could not be safe among them, without he were environed with guards and troops, ought to be abhorred by every true Englishman, by every man who loves liberty and his country."

From hence, my Lords, we may judge, what that noble lord, were he now alive, would think of some of our present advocates for a Standing Army. I am persuaded he would think they had a greater concern for something else, than they had, either for the liberties of their country, or for the preservation of our present establishment; for, if he were now alive, I am convinced, he would be now as much against keeping up a Standing Army in time of peace, as he was for it in king William's time; because, there were then many arguments for it, which do not now subsist. Our army was then composed of men who had all of them ventured their lives, and many of them lost their blood,

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in the service of their country, so that we were in some measure obliged in gratitude to provide for them. There was then an ambitious and warlike prince upon the throne of France, one who openly protected and supported the Pretender to our crown, and one who had often shewn, that neither his treaties nor promises were to be depended on. The peace of Europe then visibly, and I may say certainly, depended upon the life of a prince, I mean the king of Spain, who was, at that time, both old and infirm. And there was then a most numerous and powerful party of professed Jacobites in the island.

To all which, my Lords, let me add, that we are now above thirty millions in debt more than we were at that time, which ought to make us more cautious of subjecting the nation to any needless expence, than we had reason to be at that time; and, if we have the least regard for the inclinations or satisfaction of the people, we ought to be more sanguine against keeping up a Standing Army by consent of parliament, than any man had reason to be, when this custom was first introduced. Some laws or regulations may, at first, appear harsh to the people; but if they be either necessary or convenient, the people will, at last, perceive that necessity or convenience, and will then become fond of them. In king William's time, some gentlemen might have supposed, that this would have been the case, with respect to the parliamentary sort of army, which was then proposed to be kept up; but no such thing can now be supposed; for, after an experience of forty years, the people, we find, are as much averse to the keeping up of such an army, as they were at the beginning; and an experience of forty years, is, I think, sufficient for convincing us, that the people will never become fond of keeping up a Standing Army in time of peace: they may be forced to submit to it; but that force will render them generally dissatisfied, and at last disaffected, which will render the security of our present establishment inconsistent with the security of our liberties or constitution; for, no nation can be said to be free, after a Standing Army has become necessary for keeping the people in subjection.

The noble lord was pleased to say, my Lords, that no army could be called a Standing Army, but an army kept up by a standing law. If this were the case, there never was, I believe, a Standing Army in the world; I am sure there is no such army now in Europe; but, every one knows, that a certain body of men regularly disciplined, and kept in pay in time of peace as well as war, has always been called a Standing Army. There is a very remarkable difference between a standing law and a Standing Army. A standing law, though it was at first made perpetual, though it should be observed for ages together, yet it cannot say to the legislature, You shall not repeal me; but an army, though it was never designed to be perpetual, though it has been kept up but a small number of years, may say to us, You shall not disband me; if you attempt to do so, I'll turn you out of doors. We know this by experience; and that experience may convince us, that an annual, parliamentary check, such as it is pretended we now have, would be of very little signification against an army sufficient, and that army provided with a general resolved, to make the parliament do whatever he had a mind. Oliver Cromwell, and the army under his command, were faithful to that parliament which established them, as long as the parliament did nothing to displease them; but as soon as the parliament began to think of disbanding them, they immediately, and without any garbling, rebelled against the parliament, and at last turned it out of doors. And with a part of the same army, we may remember, that general Monk, in a few months, and with but very little garbling, dissolved the Rump Parliament, by whose authority he at first pretended to act, and restored king Charles 2.

From these examples we may conclude, my Lords, that it would be no very difficult matter for an ambitious and artful prince, with such a numerous army as we have at present, to overturn our constitution, by means of his army, before the parliament could interpose that annual check, in which we are now taught to place so great a confidence; and I must observe, that we are in greater danger from an ambitious prince or general at the head of an army of our own subjects, than we can be in from an invasion; for such an army, let their designs be never so bad, will always have a great many friends amongst, and will meet with great assistance from, our own people; whereas if a foreign army should invade us, or be brought in with a design to subdue us, our people would join to a man against such invaders; and while they enjoy their liberties and properties, they would certainly fight with

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great obstinacy and resolution, in defence of those liberties and properties. But if we should be long saddled with a numerous Standing Army, and the people continually dragooned into submission, by means of that army, they will, at last, look upon themselves as slaves; and in that case, it may be easy for an invading enemy to conquer us; for, as the people will then consider, that they have neither liberty nor property to lose, they will think of nothing but of preserving their lives by submitting to the enemy; nay, they will probably expect an advantage from any change of circumstances, at least, they will think they have got an opportunity for revenging themselves upon their former oppressors; and therefore, instead of opposing, they will join the invader.

When there are so many, and so great dangers to be apprehended from keeping up a Standing Army in time of peace, I must think the noble lord made a very wrong application of the quotation he made from a celebrated Roman author; for, in my opinion, my Lords, it is applicable only to ministers and their favourites: if they are the only persons that fear nothing from a Standing Army, I am sure, this House and the whole nation, have the greater reason to fear. But now, my Lords, suppose there were no danger to be apprehended from keeping up a numerous Standing Army, and suppose we could contrive no other sort of military force, upon which we could depend for our defence against invasions or insurrections; yet it must be granted, that, for the sake of the expence, no greater army ought to be kept up than what is necessary; therefore we ought to agree to the reduction proposed; for, surely, an army of 12,000 men is now as sufficient for defending us both against invasions and insurrections, as an army of 7,000 was at the end of king William's reign; which was the number the army was then reduced to in England; and if to that number we add the regular troops then kept up in Scotland, the whole amounted not to 10,000 men; yet, notwithstanding the ticklish state of affairs in Europe at that time, this number was found so sufficient for protecting the whole island, that no invasion or insurrection was then so much as attempted.

This shews how great a mistake it is to affirm, that every reduction of our army has been followed by an intended invasion or insurrection. My Lords, this is so far from being the case, that every invasion and insurrection we have lately had, or been threatened with, evidently appears to have been the effect of some discontents, that had been raised among our people, and those have always been occasioned by some extraordinary, though perhaps necessary measures, that were taken by our government. The designed invasion from Dunkirk in the year 1708, proceeded from the discontents that had been raised in Scotland, by the Union, which was, the year before, concluded between the two nations. The insurrection in 1715, proceeded from the discontents that had been raised, by some measures that were taken upon his late Majesty's accession; for, I am fully convinced, that, if the advice of a noble lord had been taken, who died soon after, and who was well known to have been a sincere and a true friend to the illustrious family now upon our throne: I say, if his advice had been taken if healing measures had been pursued, and former animosities forgot, upon his late Majesty's accession, I am convinced, no such thing as an insurrection would have been so much as attempted; but other councils prevailed; we know who were the authors of those councils; they were certainly the most just and the most necessary, but they raised such discontents as made it easy for seditious men to spirit some of our people up to rebellion. The designed invasion from Spain in 1718, proceeded from the discontents that were then still reigning among our people: and the plot, or designed insurrection, in the year 1721, proceeded from the discontents that had been occasioned by the misfortunes and mismanagements in the execution of the South Sea scheme, in the year 1720.

Thus it appears, my Lords, that every invasion and insurrection we have lately been threatened with, proceeded from the discontents, that had been raised among the people; and if the keeping up of a greater number of regular forces, than is apparently necessary, may raise discontents among the people, as, I think, it necessarily must, we may conclude, that, with respect to invasions or insurrections, instead of being an antidote, it will always be a provocative. Now, as an army of 7,000, or, if you please 10,000, men, has by experience appeared to be sufficient for preventing invasions and insurrections, at a time we were in as great danger as we can ever be supposed to be in, unless when they are actually threatened, and

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preparations making for that purpose, every impartial man must conclude, that an army of 18,000 is a much greater number than is necessary at present; every man that judges so, must of course become discontented; and therefore, not only for the sake of the expence, but even for the sake of our future security, against being threatened with any invasion or insurrection, we ought to make, at least, the reduction proposed.

I am, indeed, of opinion, my Lords, that 12,000 is rather too great a number. Even such a number may be of dangerous consequence to our liberties, if ever we should happen to have an ambitious and artful prince upon our throne. Nay, if our militia were properly regulated and disciplined, I should be against keeping up half the number; for general Monk, with less than half the number, overturned the government then established, and restored king Charles II. and in that king's reign, some people we know, were of opinion, that less than half the number would be sufficient for establishing arbitrary power, as appears from a famous scheme, privately, it is said, offered to him, for bridling the power of parliament, for loading the nation with excises, and for doing a great many other fine things, mentioned at large in that scheme. But, my Lords, to make too great a reduction at once, might be attended with many inconveniences, and perhaps with danger; therefore, I think, the noble lord was right in his motion; I think a reduction of 6,000 is the greatest we ought to make at once; but it is not from thence to be inferred, that he, or any one that has seconded his motion, is of opinion, that no farther reduction ought ever to be made; for I do not think our constitution and liberties will ever be absolutely safe, until we return to our ancient method, of making military exercises the diversion and amusement of all ranks of men, and of making it the custom or fashion for all our laymen at least, to breed themselves up to arms and military discipline; and if we can accomplish this, I believe, it will be granted, we would then have no occasion for a Standing Army, or for keeping a greater number of regular troops in continual pay, than was necessary for the grandeur and personal safety of our king and royal family.

The *Lord Chancellor* said:

My Lords; In this debate, I think, it has been granted on all sides, that when there are great discontents among the people, we are exposed to the danger both of invasions and insurrections; and it has likewise been granted, that there are at present great discontents among the people of this nation; therefore it must, I think, be granted, that we are now in great danger, not only of insurrections, but of invasions; and no lord who has spoke in this debate, has pretended to say, that we ought not to keep up an army, or that we ought to reduce our army, when we are in real and immediate danger. But, say some lords, all the discontents we now complain of, proceed from your keeping up such an army: Disband but your army, say they, or a great part of it, and the people will be satisfied. This, in my opinion, my Lords, would be like a man's throwing away his arms, in order to be reconciled with his enemy; which, I am sure, no man of courage or prudence would do: If a man has any true courage, or common prudence, he will first endeavour at a reconcilement; and when he is well assured, that his enemy is sincerely reconciled with him, he will then lay aside his arms, because he cannot have an immediate use for them.

My Lords, if we are certain, that all our present discontents proceeded from our keeping up an army, and that all those that now appear discontented, would be satisfied, and would be sincerely reconciled with, and obedient to, our government for the future, I should readily agree to the reduction proposed: But the contrary, I think, is manifest. It is not from our keeping up an army that our present discontents proceed: It is not with our government only, but with our whole legislature, that the meaner sort of people appear dissatisfied. The greatest discontents that have appeared, the most frequent riots that have happened, have been occasioned by an act of the whole legislature, and one of the best acts that was ever made, one of the most necessary for preserving both the health and morals of the people. Our discontents and riots occasioned by the erecting of turnpikes are of the same nature: They do not proceed from any measures taken by the government only; but from measures that have been approved of by the whole legislature. In both these cases, the discontents and riots that happened, or may happen, must be allowed to proceed from measures that were proposed by those, who could have nothing in view

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but the happiness and convenience of the people; and what they proposed have met with the approbation, not only of our legislature, but of all the better sort of people in the kingdom; It is only among the very dregs of our people, that these discontents, and this spirit of mobbing and rioting prevail: and, if you allow the dregs of your people to prescribe to, or controul the legislative authority of the kingdom, in opposition to what is approved of by all those of a superior rank, not only our present establishment, but government itself must be at an end: Anarchy and confusion must ensue, and from that anarchy, as has been once our fate already, one of the worst sort of tyrannies will certainly spring up.

Thus, I think, my Lords, I have shewn, that the dissatisfaction that now prevails chiefly among our meaner sort of people, does not proceed from our keeping up a numerous Army; and none of those discontents which proceed from disaffection, disappointment, malice, envy, or resentment, can, with the least shadow of justice, be attributed to our keeping any number of regular troops in pay. These discontents, it is true, may all of them be heightened by the army we keep up at present: but how are they heightened, my Lords? The disaffected are angry with our Army; because, by means of our Army, our government is enabled to prevent its being in their power to overturn our religion and constitution, by introducing Popery and slavery. The seditious are angry with the Army, because, by means of the Army, our government is enabled to prevent its being in their power, to spread war, bloodshed, and desolation, over the face of their country; and the loose and abandoned are angry with our Army, because, by means of our Army, our government is enabled to prevent its being in their power, to come easily at those pernicious liquors, which give a new spring to all their vicious appetites, and which make it easy for them to draw multitudes into the same lewd and debauched course of life. If our Army, or a great part of it, were disbanded, can we expect that either of these sorts of discontented people, would be sincerely reconciled to the present establishment and laws of their country? Can we expect that either of them would become quiet and peaceable subjects? No, my Lords: they would all think they had got an opportunity for accomplishing their respective favourite designs: they would probably join together, as the triumvirate did at Rome, in endeavouring to destroy every man of religion or virtue in the country; and what might be the consequence, I dread to think on.

I shall never therefore, my Lords, be for disbanding or reducing our Army, as long as this spirit of disaffection, sedition, and dissoluteness, prevails among our people. It is this spirit that makes the keeping up of our Army necessary. It is this spirit that now makes a greater Army necessary than in king William's reign; for though there was then perhaps as much disaffection as at present, there was little or no spirit of sedition among any, and much less was there a spirit of dissoluteness and immorality among the meaner sort of people. We had then nothing to guard against but the attempts of the Jacobites; and though there was a greater number of open, professed Jacobites than now, yet their attempts were less dangerous, because they avowed their principles; whereas, many of our modern Jacobites have learned to disguise themselves, by assuming the character of lovers of liberty, and admirers of our antient constitution. They then made their attacks openly, but now they approach by the sap, or endeavour to corrupt the garrison; which is one reason for shewing, that we now stand in need of a greater body of well disciplined troops, to defend us against the attempts, even of the Jacobites, than we did in king William's time. But there is another, my Lords, which, with me, is still of more weight: in king William's time, the violences and oppressions of the late king James's reign were fresh in every man's memory: the danger to which our religion, our liberties, and our properties, had been exposed, was what every man then knew by his own experience. These things are now generally known by hear-say only; and therefore, we cannot expect that our people would now be so unanimous, or so zealous, in opposing the attempts of the Jacobites, as they would have been in king William's time. Besides, the late king James was then alive; and therefore no attempts could be made, but in favour of the very man who had oppressed us; and who, by his blind bigotry, had brought us to the brink of destruction; whereas now the person is changed, and from a new person, the thoughtless part of our people may be deluded into the expectation of a new sort of conduct. For this reason, we cannot now expect that any

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but the prudent and thoughtful, will be unanimous and zealous against all such attempts; and they may be overpowered, if they are not supported by a sufficient regular Army.

But, suppose, my Lords, we had nothing to fear from any party amongst ourselves, or from any discontents now subsisting among our own people, yet, I should be far from thinking the present a proper time for reducing our Army. We are not now, it is true, in actual war with any potentate in Europe; but there is, I think, some reason to suspect we are upon the brink of it. As I am one of those who have a good opinion of the wisdom of our present administration, I believe they will avoid a war, if possible; because it is against the interest of this nation to make conquests, and therefore, against our interest to enter into a war, if it can be avoided with honour; but, the behaviour of the Spaniards towards us has of late been of such a nature, that we must insist upon satisfaction; and though the court of Spain has not yet denied it, yet we know, that a proper satisfaction is hard to be obtained from any nation; and considering the natural haughtiness of the Spaniards, I believe, it will be found to be as hard to obtain a proper satisfaction from that nation as from any other; therefore, though we have still hopes of being able to obtain redress in a peaceable way, I think it would be wrong in us to divest ourselves of those, or any of those means, which are necessary for obtaining it by force of arms. This, I think, would be our case, should we agree to the reduction proposed; for we could not then, in my opinion, spare to send one man of our regular troops out of the kingdom; and I believe, every one will grant, that, in case of a war with Spain, it would be absolutely necessary to send some land-forces along with any squadron sent to infest their coasts. Without such a land-force our navy could not do them great prejudice; and therefore, the sending such a land-force would be the only effectual way we could take for procuring a speedy compliance with our just demands. A reduction of our Army would therefore be a vast disadvantage to us, in case our present differences with Spain should, at last, come to an open rupture; and if it be our interest to obtain redress without coming to an open rupture, as I think it is, it is rather our business to augment than diminish our regular troops; for the court of Spain will certainly be the more pliable, the more they are convinced of our being in a readiness to revenge the injuries we have met with.

As to the regulations our Army is now under, I do not see, my Lords, what relation they can have to the present question; and therefore, I do not think it necessary, to take much notice of what has been said upon that subject. Only I must observe that ever since we have had any such thing as a regular Army, it has always been under the same regulations. Under these regulations, it has procured us security at home and glory abroad; and hitherto we have not found the least inconvenience from any of these regulations; which are circumstance that cannot, I think, afford so much as one good argument for a change; but, on the contrary, furnish us with one of the best arguments that can be made use of against admitting any change. The officers commissions must always be, in my opinion, at the King's absolute disposal; for it is necessary both for the support of our government, and for preserving regularity and discipline in the Army, to give the King a greater power over the officers of our Army than he has over our judges or clergy. There are many little pieces of oppression and injustice, which officers and soldiers might be guilty of, in their quarters and otherwise, which it is impossible to punish or provide against, by any human laws, civil or military. There are many little pieces of neglect or misbehaviour in duty, which it is impossible to prevent by any law, or to punish even by a court-martial. There is no way of tying officers down to that behaviour, diligence, and regularity, which is necessary, both for the quiet of the people, and the perfection of military discipline, but by making the preservation of their commissions, as well as their preferment in the Army, depend upon the whole tenor of their conduct and behaviour; and there is no way of doing this, but by leaving it entirely in the King's power to determine, by the advice of his generals and superior officers, what gentlemen deserve to be preferred, and what officers ought to be cashiered.

I am fully convinced, my Lords, that the giving our officers a legal title to their commissions during life, or even establishing it as a rule, that no officer could be turned out of his commission but by a court martial, would be the cause of great oppression upon the people, and would

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put an end to all regularity and discipline in the army; and I cannot but admire, that those who, for some years, have pretended to think an annual army so dangerous to the liberties of the people, should ever be for establishing an army for life, which would probably be the case if the commissions of our officers were all declared by law to be for life. I shall readily grant that this would take off a great deal of their dependence upon the crown, and might, perhaps, make it more difficult for a minister to have any undue influence, either in Parliament or at elections; but it would, I am afraid, render our Army so mutinous, and would make it so difficult and tedious to get any officer dismissed, that the Army would, I believe, in a short time, begin to prescribe laws both to the crown, and to the Parliament.

I must beg pardon, my Lords, for having said so much upon that subject, which I think, no way relates to the question now before us. The only question now under our consideration is, whether we ought to reduce our Army from 18,000 to 12,000 men. Upon this question, as well as in all other affairs that come before us, every member ought to determine from his own knowledge, and by his own judgment; and, as most of the members now present, were last session of Parliament of opinion, that 18,000 men were necessary for our defence last year, I hope they will, in this session of Parliament, be of the same opinion, with respect to the ensuing year; for, I can see no pretence for thinking our danger from invasions or insurrections less than it was last year; and as we have kept up the same number for several years past, without being sensible of the least inconvenience, as we have all along enjoyed, by that means, a perfect tranquillity, I cannot be for giving up a security, which, by experience we have found to be certain, on account of any pretended danger, which as yet can be called nothing but imaginary.

The question was then put upon the motion, and carried in the negative. Contents 35. Not Contents 99.

PROCEEDINGS IN THE COMMONS ON THE PETITIONS RELATING TO THE SPANISH DEPREDATIONS.*] March 3.

Mr. Alderman Perry presented to the House, a Petition of divers merchants, and planters, and others, trading to, and interested in the British Plantations in America, on behalf of themselves and many others, setting forth, "That application

* "Hitherto the minister had maintained the grand system of policy, which he had laid down as necessary for the support of the protestant succession, and for the maintenance of internal tranquillity, which he justly viewed as paramount to all other considerations; and it may be confidently asserted, without the imputation of partiality, that to his firmness and address, Great Britain was solely indebted for a longer period of peace, than had been experienced since the Revolution. The advantages which resulted from this system were incalculable. But the nation was sated with so great a blessing; and the time arrived, when the violence of party, the clamour of merchants, the dreams of heroic grandeur, and the horror of national degradation, overcame the repugnance of the minister, and plunged England into war.

"In consequence of having first discovered the new world, and by virtue of an investiture from Pope Alexander the 6th to Ferdinand the Catholic, Spain assumed an exclusive right to all the continent of America. The other nations of Europe, however, did not acquiesce in this chimerical claim, and Portugal, in particular, made a settlement in the Brasils, which the Spaniards could not prevent. But when Philip the 2nd acquired possession of Portugal, Brasil fell under his dominion. Having thus obtained possession of the only colony in America which had at that time been occupied by another power, he maintained with greater weight his exclusive right; and so formidable was his naval force, that all attempts made by the English, in the reign of Elizabeth, to settle and trade in South America, were rendered ineffectual. When the naval power of Spain declined, by the defeat of the Armada, and when the vast fabric of her empire began to moulder away under the feeble successors of Philip the 2nd; the Dutch, French, and English formed settlements on the continent and islands of America. But long after the English had made permanent establishments in America, Spain did not renounce her original title, and even in times of peace, hostilities seldom ceased in the West Indies.

"At length, in 1667, a treaty was concluded between England and Spain, which, though loosely worded, was a tacit acknowledgment of the British possessions in America.

"This treaty, the eighth article alone excepted, related solely to Europe, but was afterwards wrested by the partisans of the Spanish war, as relating no less to America. It allowed freedom of navigation and commerce, in all places where commerce was before carried on, and is principally remarkable for permitting the liberty of searching merchant ships, sailing near the ports and in the seas belonging to the respective countries, and of confiscating

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was made to this House, in the year 1728, against the many unjust seizures and depredations, that had, for several years preceding, been committed by the Spaniards in America upon his Majesty's subjects, whilst they were carrying on their fair and lawful trade in those parts; upon which application, this House came to a resolution, 'That from the peace, con-'cluded at Utrecht, in the year 1713, to 'this time, the British trade and naviga-'tion to and from the several British co-

contraband goods, which expression alluded to arms or ammunition, and was principally intended to prevent the English ships from supplying the states of Barbary with military stores. But as the treaty was confirmed and referred to by all subsequent contracts, it gave occasion to the searching of ships, by the Spanish guarda costas in the American seas; an article which afterwards occasioned the violent disputes on both sides, that finally terminated in the Spanish war. This compact was introductory to a more explicit treaty in 1670, which seems to have been the first by which Spain formally acknowledged the right of any other nation to part of the new world.

"The treaty of 1670 solely relates to America; and besides confirming to the English, the right of sovereign dominion of all lands in the West Indies, then possessed by them, regulates, in the most specific terms, the mode of intercourse in that quarter. The ninth article forbids the respective subjects of each nation from sailing or trading with the colonies or dominions of the other in the West Indies, yet permits such navigation and commerce to be exercised according to a licence, granted by either sovereign.

"The letter and spirit of this treaty were at direct variance with each other; the letter prohibited and the spirit encouraged a mutual trade between the two nations. For although the express terms prohibited all commerce with the Spanish ports in the West Indies, yet a great facility was given to the mutual intercourse, by the formal permission, that English ships should be allowed to put into Spanish harbours, if forced by storms or other inconveniences, and continue there until they had refreshed themselves, and refitted, without giving notice to the governor, unless they were three or four together. Notwithstanding also the right and pre-eminence which the Spaniards claimed to the American seas, care was to be taken, that the liberty of navigation should not be disturbed. These stipulations incontestably prove that the Spaniards were inclined to favour the English, by conniving at, though they did not permit the trade, and such were the effects of this memorable treaty.

"In virtue of those treaties, the Spaniards claimed a right, which they continually exercised, of searching the British merchant ships which passed near their American ports.

"From the conclusion of the treaty of 1670, to the death of Charles the 2nd of Spain, a strict friendship and union subsisted between the two crowns, both in Europe and America, and a flourishing, although illicit trade, was, by the connivance and indulgence of Spain, carried on between the English and Spanish plantations. The reason for this favourable treatment is evident. The great opposition and rivalship which then subsisted between France and Spain, and the desire of France to become mistress of the Low Countries, inclined Spain to consider the English as her most useful friends, and the most capable of protecting or incommoding, by their maritime force, her foreign dominions. It was no wonder, therefore, that the Spaniards not only strictly observed their treaties, but even extended their indulgence, with respect to trade, farther than could be claimed by specific stipulations.

"It was easy to foresee that the accession of a prince of the house of Bourbon to the throne, would affect the British trade to Spanish America. The consequences of this event would have been immediately visible, had not the war of the succession, in which Spain became the theatre of bloody hostilities, rivetted the attention of Philip the 5th to his European dominions. But he was no sooner firmly established on the throne, than he turned his views to the American trade. The treaty of commerce which was concluded at the peace of Utrecht, between Great Britain and Spain, introduced a material alteration in the intercourse between the two nations. The ninth article of the treaty of 1670, which granted permission of trade to the ports and places in the West Indies, with the licence of the sovereign, was annulled; a contract, commonly called the assiento treaty, for supplying the Spanish colonies with a certain number of negroes, was granted to the South Sea company, for thirty years, with the privilege of annually sending a single ship of a certain burthen to Spanish America, laden with European merchandise. Excepting these alterations, the treaties of 1667 and 1670 were confirmed, and although those treaties were broken during the two short wars which took place between Spain and England in 1718 and 1727, yet as they were renewed by the quadruple alliance, and the treaty of Seville, the trade to America was nominally placed, in all other respects, upon the same footing as it stood under Charles the 2nd of Spain.

"It soon, however, appeared, that new principles were adopted in the Spanish councils, exactly the reverse of their former proceedings. The letter of the American treaty was now followed, and the spirit by which it was dictated abandoned. Although the English retained the liberty of putting into the Spanish harbours, for the purpose of refitting and provisioning, yet they were far from enjoying the same advantages of carrying on a friendly and com-

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'lonies in America, has been greatly in-
'terrupted by the continual depredations
'of the Spaniards, who have seized very
'valuable effects, and unjustly taken and
'made prize of great numbers of British
'ships and vessels in those parts, to the
'great loss and damage of the subjects of
'this kingdom, and in manifest violation
'of the treaties subsisting between the
'two Crowns:' and that this House was pleased humbly to address his Majesty thereupon; and that the Spaniards conti-

mercial intercourse. They were now watched with a scrupulous jealousy, strictly visited by guarda costas, and every effectual means adopted to prevent any commerce with the colonies, excepting what was allowed to the annual ship. The cause of this alteration was evident. Spain was governed by a sovereign connected with France by blood and policy; deprived of the Netherlands, she no longer considered England as her natural ally, and was not interested to obtain her friendship by commercial sacrifices. The influence of these considerations was occasionally suspended, during the temporary misunderstandings between Spain and France. At those periods, a more friendly intercourse was connived at, and this variation in the policy of Spain gave rise to a variety of misconstructions.

"From the long continuance of this trade the British merchants began to consider it as a prescriptive right, and not matter of indulgence, and were unwilling to renounce so profitable a branch of commerce, which so many of them pursued in an open and daring manner. They continually put into the Spanish harbours, under pretence of refitting and refreshing; and in many places almost publicly disposed of European merchandise, in exchange for gold and silver. Other vessels sailing near their ports and harbours, were repaired to by smugglers, or sent their long boats towards the shore and dealt with the natives.

"The Spaniards complained that the asiento annual ship, was followed by several other vessels which moored at a distance, and as it disposed of its cargo, continually supplied it with fresh goods; that the fair of Panama, once the richest of the world, where the Spanish merchants were accustomed to exchange gold and silver for European merchandize, had considerably fallen, and that the English monopolized the commerce of America.

"It was no wonder, therefore, that the guarda costas, and other armed vessels, made vigorous exertions to prevent this illicit traffic, that some illegal captures were made, and some occasional acts of violence and cruelty committed. The distance from Europe, the insolence of the English sailors, the delays of the Spanish tribunals, and the interest of the governors in declaring the vessels confiscated, because they had a share in the cargo, rendered frequent redress of grievances extremely difficult, if not impracticable. The merchants who suffered made violent clamours, over-rated their losses, and exaggerated the accounts of insult and barbarity committed by the Spaniards.

"Volumes and volumes have been written by the English and Spaniards on the subject of these depredations: but as each side endeavoured to pervert facts, and gave different constructions to the most simple expressions, the dispute could never be finally settled. The state of these differences, and the difficulty of adjusting them, are well explained in a few words by Keene, in a letter to the duke of Newcastle:

"'Upon the whole, the state of our dispute
'seems to be, that the commanders of our
'vessels always think, that they are unjustly
'taken, if they are not taken in actual illicit
'commerce, even though proofs of their hav-
'ing loaded in that manner be found on board
'of them; and the Spaniards on the other
'hand presume, that they have a right of seiz-
'ing, not only the ships that are continually
'trading in their ports, but likewise of examin-
'ing and visiting them on the high seas, in
'order to search for proofs of fraud, which
'they may have committed; and till a me-
'dium be found out between these two notions,
'the government will always be embarrassed
'with complaints, and we shall be continually
'negotiating in this country for redress, with-
'out ever being able to procure it.' (Benjamin Keene's dispatch to the duke of Newcastle, Madrid, December 13th, 1737. Walpole Papers.)

"While the question of Spanish depredations was agitated, other differences subsisted between England and Spain. The right of cutting logwood in the bay of Campeachy, and collecting salt in the island of Tortuga, was called in question; and some disputes arose in regard to the limits of Carolina and Georgia. Geraldino, the Spanish agent in London, delivered a strong memorial, claiming part of those colonies which lay contiguous to Florida; and the demand was made in such violent terms, that the ministers were apprehensive of an attack on the province of Georgia; accordingly a battalion of troops was ordered to embark from Gibraltar for America.

"Though Elizabeth Farnese had procured the throne of Naples and Sicily for Don Carlos, she was dissatisfied with the peace. She still aspired to the possession of Parma and Tuscany, which she considered as hereditary possessions; and when on the death of John Gaston, the last sovereign of the house of Medicis, Tuscany devolved on the duke of Loraine, she beheld his succession with an unfavourable eye: she even made overtures to England, and insinuated, that if assistance was effectually granted, Spain should relinquish all claims on Gibraltar and Minorca, and accommodate

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nuing their depredations on the British subjects, and no satisfaction having been obtained for those before committed, a farther application was made to this House, in the year 1730, complaining of the great interruptions given by the Spaniards to the trade and navigation of this kingdom, and their cruel treatment of the British subjects; and that this House, having again taken this matter into their consideration, and examined into the same with the utmost deliberation, came to a Resolution: 'That an humble Address be presented to his Majesty, that he will be 'graciously pleased to continue his endeavours to prevent the depredations of the 'Spaniards, for the future; to procure 'full satisfaction for the damages already 'sustained; and to secure to the British 'subjects, the full and uninterrupted exercise of their trade and navigation to, and 'from the British colonies in America.' Which Address was presented to his Majesty accordingly; and representing to the House, that the Spaniards have paid so little regard to his Majesty's most gracious endeavours, that they have continued their depredations, almost ever since the treaty of Seville, and more particularly last year have carried them to a greater height than ever; they having arbitrarily seized several ships, with their effects, belonging to his Majesty's subjects, on the high seas, in the destined course of their voyages to and from the British colonies, amounting to a very considerable value; and that the captains or masters of some of the said ships were, according to the last advices of the Petitioners, and are (as the Petitioners believe) at this time confined by the Spaniards in the West-Indies, and the crews are now in slavery in Old-Spain, where they are most inhumanly treated; and that that cruel nation make it their practice to attack and board all British merchant ships, they meet with in the American Seas, under pretence of searching for goods, which they deem contraband or not, according to their own arbitrary will and pleasure, contrary to the law of nations, and in manifest violation of the treaties subsisting between the two Crowns; and that by these unjust and violent proceedings of the Spaniards, the trade and navigation to and from America is rendered very unsafe and precarious; insomuch, that the insurance from Jamaica has greatly risen on these accounts only; and that, without some speedy and effectual remedy, the American trade and navigation will be (together with the revenue of the Crown arising therefrom) very much diminished, if not entirely lost; and farther representing to the House, that, although his Catholic Majesty has stipulated by the treaty of Seville, and by

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all commercial differences, to the full satisfaction of England. But this overture, which tended to plunge Europe into a new war, being rejected, the queen of Spain was still more irritated, and continued to maintain powerful armaments by sea and land. In conformity to orders, sent from the court of Madrid, the guarda costas became more vigilant and severe than ever; and repeated instances of their violence were transmitted to England.

"A Petition was accordingly presented to the King, by a large body of merchants trading to the West Indies, complaining of these depredations, and stating specific cases of illegal captures and confiscations. The King referred this petition to the cabinet council, before whom the merchants were heard. In consequence of their evidence, the duke of Newcastle drew up a spirited memorial, shewing the nature of the trade, and giving such an explanation of the treaties of 1667 and 1670, on the due understanding of which the affair ultimately rested, as appeared to justify the complaints of the British traders, and to criminate the conduct of the Spaniards. This memorial, and the merchants' petition, were sent to Mr. Keene, with orders to present it to the king of Spain. The memorial, after repeating the various applications which had been ineffectually made for restitution of ships and effects unjustly seized, and demanding satisfaction for the depredations and cruelties committed by the guarda costas, required the king of Spain to give effectual orders for punishing the persons guilty of these atrocites, and for granting immediate reparation to his subjects; and concluded by observing, that if, contrary to expectation, these instances should not have the desired effect, the king would be obliged to procure for his subjects that satisfaction which they had a right to demand, by virtue of subsisting treaties, and the law of nations. Mr. Keene presented this memorial on the 10th of December; to which Philip replied, that he would do all in his power to preserve the friendship of the king of England. Notwithstanding the pressing importunities of Mr. Keene, who declared that nothing but immediate restitution and exemplary punishment could give satisfaction, the answer was not returned before the meeting of Parliament. It also appeared, that the Spanish court did not view the subject in the same light as had been represented by the English cabinet, and controverted many positions advanced in the memorial. Such was the state of the disputes between England and Spain, when Parliament was assembled." Coxe's Memoirs of sir Robert Walpole.

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the declaration of 1732 relative thereunto, to cause reparation to be forthwith made of the unhappy sufferers, yet there is no instance of its having been done; so far from it, that, whilst the British subjects have been amused with vain and fruitless hopes of satisfaction, the Spaniards have committed farther insults and depredations upon them, and still continue the same unjust practices; and that the Cedulas or orders given by the Court of Spain to their governors in America, are only calculated (as the petitioners by experience have great reason to apprehend) to evade giving satisfaction to the British subjects; for there has never been one of the Cedulas complied with, nor any governor recalled, nor punished for his disobedience, is the petitioners ever heard; and that, for any nation to assume the power of detaining or rummaging the British ships upon their lawful voyages in the American seas under pretence of searching for contraband goods, is in effect (as the petitioners conceive) claiming and exercising the sole sovereignty of those seas; and that if the Spaniards be suffered to act in this injurious manner, to insult the persons of his Majesty's subjects, or to plunder them of their property, the petitioners apprehend the same will be attended, not only with great obstruction to this valuable branch of our commerce and navigation, but also with consequences very fatal to Great Britain itself, and as the measures hitherto pursued have proved ineffectual, praying the House to take the premises into their mature consideration, and provide such timely and adequate remedy, for putting an end to all insults and depredations on the British subjects, as to the House shall seem meet, as well as procure such relief for the unhappy sufferers, as the nature of their case, and the justice of their cause require; and that they may be heard by themselves *and* counsel thereupon." Upon this,

The *Speaker* said:

Gentlemen; Though my office, while I am in the chair, deprives me of having any share in your debates, yet it obliges me to declare what are the forms of the House. As I conceive this to be a point of form, it is my duty to acquaint you, that so far as I have yet observed, it never was the method of this House to admit parties to be heard by themselves *and* counsel. The motion that is always made in such cases is, That the petitioners be admitted to be heard by themselves *or* counsel. If therefore the honourable gentleman who made the motion, is not satisfied that I put the question, Whether it is your pleasure that the petitioners be heard touching the matter of this Petition by themselves *or* counsel, I must beg leave to take the sense of the House with regard to the terms in which I am to put the question upon the present motion.

Sir *John Barnard* seconded the motion thus:

Sir; I do not pretend to be so well acquainted with the forms of the House, as to give my opinion whether the petitioners ought to be heard by themselves *and* counsel, or by themselves *or* counsel: but, Sir, I know that this petition is founded upon facts, and I should be sorry to see the design of it defeated by a scrupulous adherence to any points of form whatsoever. The request of the petitioners, Sir, however as to form it may be extraordinary, yet in point of reason, in my opinion, is justifiable. Most of the petitions upon which counsel is prayed to be heard at the bar of this House, are against Bills depending before the House; and gentlemen, in the course of such Bills passing the House have opportunity of making themselves masters of the case; so that the counsel have little else to do, but to prove from facts that the Bill depending is either unjust in itself by affecting the property of the persons that petition, or by clashing or being inconsistent with some former law. But, Sir, the case of the present petitioners is widely different; the repeated losses they have met with, and the injuries they have sustained in their trade, can never so well be understood from the mouth of a lawyer, as from their own; because, Sir, it is impossible for the ablest lawyer either to be so well instructed in the interests and claims of the several petitioners, or to explain the several terms of commerce and navigation that must necessarily occur in this affair, so as to be understood by gentlemen unacquainted with these matters. Therefore, Sir, I humbly think it will be a hardship upon the petitioners, to deny them a request of so little importance as the present, merely because it interferes with a matter of form. I beg leave to say, Sir, that forms cannot be better known than by precedents, and I believe it will puzzle any gentleman to find a precedent of a case parallel to the present, whether we consider the long course of

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injuries which some of the petitioners have sustained, the melancholy situation to which others of them are reduced, or its importance to the trade, the honour, and safety of Britain. Therefore, Sir, I am of opinion we ought to make no difficulty of agreeing to the request of the Petition.

The *Speaker* still insisted, that he looked upon it as contrary to all forms of Proceeding in that House, to allow the Petitioners to be heard before the Committee by themselves *and* counsel.

Sir *William Windham* said:

I think, Sir, that gentlemen are extremely obliged to your care, in putting them in mind of the usual form of proceeding, and am intirely of your opinion with regard to the present motion. I believe no gentleman here can suspect that I have not as warm a sense of the injuries our merchants have sustained, as any gentleman here; but, Sir, I think we ought to proceed in a parliamentary method, and not make any innovations in our forms, except where it is absolutely necessary. For my own part, Sir, in the present case, I judge it is so far from being absolutely necessary, that it would do the petitioners a prejudice. As to what my honourable friend mentioned about a counsel's not being able to put mercantile affairs in such a light as to be thoroughly understood by gentlemen, I am entirely of his opinion; but then I think the petitioners ought to appear at our bar not as counsel, but as evidences for themselves. This, Sir, will effectually answer all the ends that my honourable friend proposes, and wil preserve our method of proceeding in its ordinary form. If therefore, Sir, the counsel shall advance a fact that requires proof, or touches upon a point that wants explanation, I think it is highly just that the petitioners should be admitted as evidences, and be allowed to answer such questions as shall be proposed either by gentlemen, or by their counsel. This I conceive, Sir, is but fair, and would inspire our merchants with a confidence in the justice of this House, and let the world see that we are resolved to leave no means untried which may contribute to give us right information, in an affair that so nearly concerns the properties of our fellow subjects, and the dignity of the nation.

Sir *Robert Walpole* spoke next:

Sir; I must humbly beg leave to differ in my sentiments on this affair, from both the honourable gentlemen. The judgment, Sir, which, in my opinion, we should form in this case, ought to be grounded on facts as they are fairly represented, not as they are artfully aggravated. Every gentleman, Sir, I believe, from his bare reflection on the injuries our merchants have received from Spain, feels within his own breast an indignation arise, which there is no occasion to increase by the power of eloquence, or the arts of a lawyer. When gentlemen, Sir, see an affair through the mist that passion throws before their eyes, it is next to impossible they should form a just judgment. I believe there is scarce any gentleman here who is not acquainted with as much geography, and as much of the history, both of Britain and Spain, as may enable him, from a plain representation of facts, to judge whether the allegations in this petition be true or false. Now, Sir, are not the merchants themselves the most proper hands for giving in such a representation? Are they not most immediately interested in the facts? Where then is the necessity, Sir, of having counsel to do this? Or what occasion, Sir, is there to work upon the passions where the head is to be informed? I believe, Sir, every gentleman will find his heart as much affected by the artless accounts of the sufferers themselves, as by the studied rhetorick of the most eloquent counsel. However, Sir, I shall not take the liberty to make any motion on this head, but intirely submit it to gentlemen's consideration.

Alderman *Willimot* answered as follows:

Sir; I think the petitioners ought to have liberty to be heard, not only by themselves and counsel; but if it were possible that we could indulge them in other advantages, we ought to do it. To talk of working upon passions! Can any man's passions be wound up to a greater height, can any man's indignation be more raised than every free-born Englishman's must be, when he reads a letter which I received this morning, and which I have now in my hand. This letter, Sir, gives an account that seventy of our brave sailors are now in chains in Spain. Our countrymen in chains! and slaves to Spaniards! is not this enough, Sir, to fire the coldest? is not this enough, Sir, to rouse all the vengeance of a national resentment? and shall we, Sir, sit here debating about words and forms, while the sufferings of our countrymen call out loudly for redress.

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Ordered, That the said Petition be referred to the consideration of a Committee of the whole House, and that it be an instruction to the said Committee that they do admit the said petitioners to be heard, if they think fit, by themselves or counsel, before the said Committee.

Mr. Coster, one of the members for Bristol, then presented to the House a petition of the master, wardens, assistants, and commonalty of the society of merchant-adventurers, within the city of Bristol, under their common seal, and the same was read; setting forth, "That for some years past, the British trade and navigation, to and from the British colonies and plantations in America, hath been greatly interrupted and exposed to the continual insults and depredations of the Spaniards in those seas, where they have taken and made prizes of great numbers of British ships and vessels, in their passage to and from the said colonies and plantations (several of which did belong to this port) to the great damage of his Majesty's subjects; whereby the said valuable trade is in danger of being lost; and that, notwithstanding the resolutions of this House, and his Majesty's most gracious endeavours to obtain for his subjects just and reasonable satisfaction, yet the Spaniards still continue their depredations, and have lately taken and plundered several ships and vessels, belonging to this and other British ports, and have treated such as have fallen into their hands in a very cruel and barbarous manner; and therefore praying the consideration of the House, and such timely and adequate remedy in the premises, as to this House shall seem fit."

Next, was presented a Petition of Samuel Bonham, Christopher Astley, Benjamin Weal, and Joseph Crowcher, owners of the ship Ann Galley, Joseph Spackman master, burden 130 tons, or thereabouts, on behalf of themselves, and the mariners and seamen of the said ship, and the same was read; setting forth, "That the petitioners on the 4th of December, 1728, and since, have delivered to his grace the duke of Newcastle, one of his Majesty's principal secretaries of state, seven memorials and petitions addressed to his Majesty, and four others delivered at the council-board, each memorial and petition setting forth the great loss and damage, the petitioners have received by the unjust capture and seizure of their ship Ann Galley and her cargo by the Spaniards on the 13th of June, 1728, in her way from Guinea to Jamaica, after the pacification between the crowns of Great Britain and Spain was not only agreed on, but notified to the respective governments in the West Indies, the same being notified at Jamaica the 3rd of June, and at Carthagena, in New Spain, the 10th of the same month; and the value of the said ship and cargo, with the freight, &c. hath been attested on the oaths of the master and several of the officers and people belonging to the said ship Ann Galley, when taken by the Spaniards, to be worth 10,500*l.* sterling, and upwards, besides the loss of interest for that sum to this time, being upwards of nine years; in all which memorials and petitions, the petitioners most humbly besought his Majesty's favour, interest, and protection, in recovering their los and damage from the Spaniards; yet that, notwithstanding his Majesty's goodness in endeavouring, by all peaceable ways and methods, to obtain satisfaction for such their loss and damage, it plainly appears to the petitioners, that those cedulas are no more than delusions and shews of justice: for his Majesty hath been graciously pleased to send several ships of war from Jamaica to demand restitution at St. Jago de Cuba, and by his minister Benjamin Keene, esq. at the court of Spain, hath made demand of the said ship and cargo, or the value thereof, and hath obtained several orders from the king of Spain, and his minister Don Joseph Pantinho, to his governor and royal officers at St. Jago de Cuba, one dated at Seville the 28th of December, 1730, one dated the 23rd of February, 1733, wherein his Catholic majesty allows the ship to be an unjust capture, and orders his governor, &c. to cause immediate restitution to be made, without making any reply to those orders; and that notwithstanding all this, and contrary, as the petitioners apprehend, to the second separate article of the treaty of Seville, and those made by his Majesty's royal predecessors, and particularly the 14th article of the treaty of 1670, between England and Spain, and confirmed by the other treaties, particularly that of Utrecht in the year 1713, by which 14th article it is stipulated, that, if justice is denied, or unreasonably delayed, it shall be lawful for that king, whose subjects have suffered, to take any rules and methods according to the law of nations, until reparation be made to the sufferers; notwithstanding his Majesty's goodness, no satisfaction could be obtained; and that therefore on the

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17th of January, 1733-4, the petitioners again addressed his Majesty in council, setting forth the hardness of their case; and that his Majesty, by the advice of his council, the 21st of February, 1733-4, did signify his royal pleasure to his minister at the court of Spain, that he, in his Majesty's name, represent to the Catholic king, that his Majesty looks upon himself as obliged, by his failure of justice in the West Indies to his Majesty's subjects, to insist, that the Catholic king do forthwith cause reparation to be made to the petitioners for their loss and damage; on which another order was forwarded to St. Jago de Cuba, to the governor and royal officers, to make full restitution for the said loss and damage; by which the factors of the petitioners, about June, 1734, received out of the royal chest at St. Jago, 2,360 pieces of eight, and two negro men, the value of which doth not exceed 531*l.* sterling; and that the petitioners finding that nothing more is ever to be expected out of the West Indies (after nine years solicitation and expence) as appears by their several letters, the copies of which have from time to time, as they came to hand, been sent and delivered at the council office, and to the office of his grace the duke of Newcastle; therefore since his Majesty was graciously pleased to lay the several memorials and petitions relating to this unhappy capture before the House, the petitioners on the 24th of March, 1736-7, brought their petition into this House, which was read, and on a motion made, was ordered to lie on the table; but that they have neither received, nor have any probable expectations to receive, from Old or New Spain farther satisfaction, than as before-mentioned, for this their great loss, which is too severe and heavy for them to bear, and which is attended with this aggravating circumstance, that the king of Spain hath agreed, that the capture was unjust, and hath ordered satisfaction to be made, but at a place, where experience shews, by repeated demands and endeavours, it cannot be obtained; and therefore praying the House to take this their unhappy case into consideration, and grant them such relief, as to the House shall seem meet."

Then was presented a Petition of Edmund Saunders, Henry Tongue, and Richard Farr, of the city of Bristol, merchants, in behalf of themselves, Henry Lloyd deceased, the insurers, master, and mariners of the ship Robert Galley, of Bristol, burden 120 tons, whereof Story King was master, and the same was read; setting forth, "That on the 20th of May 1729, (which was almost a whole year after the pacification between the crowns of Great Britain and Spain being not only agreed upon, but notified to the respective governments in the West Indies) their said ship, proceeding on her voyage from Guinea, by the way of Barbadoes, to Jamaica, was taken on the coast of Hispaniola, six leagues out at sea, by a Spanish Guarda la Costa, and, as the petitioners presume, contrary to the law of nations and treaties then subsisting, and the ship and cargo carried into St. Domingo, and there condemned as prize; the value of which, with freight, &c. when taken, as attested upon oath by the master, was 10,664*l.* sterling, and upwards, besides the interest thereof for near nine years; and that admiral Stewart, when he was commander in chief of his Majesty's ships of war stationed at Jamaica, on notice of taking of the said ship and cargo, sent his Majesty's ship the Trial to St. Domingo, to demand restitution; but that the commander of her received for answer, that the ship and cargo had been condemned by the Audience, and there could be no redress, unless obtained in Old Spain; and that the petitioners having made application to his Majesty by petition in November 1729, complaining of the unjust capture of the said ship Robert, and begging his Majesty's most gracious interposition, that justice and restitution might be done them; but receiving no satisfaction, and the Spaniards continuing their depredations, the petitioners joined in a petition with other merchants of Bristol to this House in 1730, and then, as they conceived, proved the allegations thereof, when this House thought fit to address his Majesty, that he would be graciously pleased to continue his endeavours to prevent the depredations of the Spaniards for the future, and to procure full satisfaction for the damages sustained; whereupon, commissaries were appointed, by virtue of the treaty of Seville; and that the petitioners having made application to them, as well as to Mr. Keene his Majesty's minister at the court of Madrid, by a memorial setting forth and authenticated papers annexed thereto, proving the unjustness of the capture of the said ship, and the loss sustained; which was delivered to his grace the duke of Newcastle, about the month of July 1731; but that, no relief

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being had thereupon, the petitioners again petitioned his Majesty in the month of September last; which was also delivered to his said grace, and has been since transmitted to Mr. Keene; but no answer being returned thereto, there is no probability or expectation of receiving any satisfaction; and therefore praying the House, as the measures hitherto pursued have proved ineffectual, to take the premises into farther consideration, and grant such relief, as to the House shall seem meet, and that the petitioners may be heard by themselves and counsel thereupon."

Ordered, 1. That the said Petitions be referred to the consideration of the Committee of the whole House, to whom the petition of divers merchants, planters, and others, trading to, and interested in, the British plantations in America, on behalf of themselves, and many others, is referred. 2. That it be an instruction to said Committee, that they do admit the petitioners to be heard, if they think fit, by themselves or counsel, before the said Committee.

Mr. *Pulteney* then said:

Sir; We have now before us an affair, in which, though it is solicited by the merchants only of one denomination, yet there is not a merchant in Great Britain who, in some degree or other, may not be said to be concerned. It is not, Sir, as has been suggested, an impotent clamour of a few Smugglers, whose effects have been justly sequestered for carrying on an illicit trade; but an humble and a just remonstrance of a very considerable body of the best friend both to the interest and constitution of their country. It would wrong the honour and justice of this House, Sir, to suspect, that if the petitioners prove the allegations contained in their several petitions, they shall not receive all the relief that it is in our power to give. But, Sir, there are other places where an effectual redress for their injuries must be solicited. I shall not, Sir, go about to accuse any one before I am certain that the allegations exhibited in the petitions are true; but one petition that has been now read, makes a very extraordinary impression upon me. The petitioners, Sir, pretend that the king of Spain's officers in America have dared to disobey the most positive orders obtained from their master at his Majesty's instances. Can any gentleman, Sir, imagine, that the Spanish officers durst have acted in this manner without the connivance of their court? or that their court would have presumed to trifle in such a manner with any ministry, but one which they thought wanted either courage or inclination to resent such treatment? As I said before, Sir, I shall not take upon me to give my judgment of the affair till I have heard the allegations in this petition made out. If they cannot be made out, Sir, I think the petitioners deserve the censure of this House for so gross an imposition. But if they are proved, Sir, which I think we have too good reason to expect, I cannot help saying, that I think our ministry have been guilty of a scandalous breach of duty, and the most infamous pusillanimity. In the mean time, Sir, as the affair itself has on all sides been confessed of the greatest importance, and it is highly requisite that every gentleman, who has the honour to sit in this House, should be present while it is in agitation, I think, Sir, we ought to subject every one, who is absent without indispensible necessity, to the severest censure we can inflict: therefore I humbly move, That the House be called over on the 16th of this month.

Mr. *Henry Pelham* said:

Sir; I do not rise up to oppose, but to second the hon. gentleman's motion; and, Sir, as he has been pleased to give us his thoughts upon this affair as it now appears to him, I hope I may be indulged in the same liberty. It is a liberty, Sir, which I should not have asked, were I not apprehensive, that if something is not said with regard to what fell from the hon. gentleman, it might too much anticipate the judgment which gentlemen may form upon the present affair. I have, Sir, heard of the case which the hon. gentleman has hinted at, and I do not doubt of the truth of the allegations contained in the petition. But, Sir, supposing them true, how do they affect the characters of those concerned in the ministry? Must the king of Spain, or his British Majesty's ministers, be answerable for the conduct of their governors in America, and for every wrong construction which these governors may make of the orders they receive from their principals? It appears upon the face of one of the petitions, that our ministry were as active as men could be in demanding satisfaction for the petitioners. If their instances had not the desired effect, the blame cannot be laid at their door; for upon the delaying of justice, one of these two ways must have been taken:

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they must either have acted as they have done, or declared hostilities must have commenced betwixt the two crowns. Now, Sir, I believe, the gentlemen who talk so much of entering on this affair with vigour, would have been cautious, had they been ministers, of engaging in a war upon the transaction of a single governor or officer, contrary to the will and intention of his sovereign. If upon the representations that were made by his Majesty's ministers at the court of Spain, the Spanish ministers had answered that the capture was just, and they were resolved to seize all other British ships trading in the same manner: this, Sir, being looked upon as the sense of their court, might have afforded very good grounds for a rupture. But it appears, Sir, from the petition, that the thing was quite otherwise, and that the ministry were only blameable for not attacking the court of Spain, because his officers either did not understand, or would not obey his orders. I agree with the hon. gentleman, as to the necessity of our making a strict enquiry into this affair; and I think the motion he has made is highly reasonable. But, Sir, I believe that enquiry will produce a different effect from what is expected by the hon. gentleman. I have reason, Sir, to be confident, that it is the interest of the ministry we should examine the allegations contained in these petitions; for I am persuaded, that thereby they must be cleared from every imputation of acting either a cowardly or a negligent part; and let the blame fall where it will, I dare say it cannot justly fall upon them.

Upon this the motion was agreed to; but the Call of the House was put off when the day appointed came, because it was rightly judged, that when the Call was over, many members would drop off; whereas, if it was delayed from day to day, it would detain them in town.

After dispatching some private Bills,

Sir *John Barnard* spoke as follows:*

Sir; As the Petitions now presented to us have been so unanimously referred to a committee of the whole House, and a proper day appointed for taking them into consideration, I make no doubt of our entering seriously into an examination of the grievances complained of; but, as those grievances are of a foreign nature, as they are grievances which have been long complained of, and as they are grievances, our government, we know, have endeavoured to get redressed, have applied to the proper court for that purpose, I must be of opinion, that we cannot examine thoroughly as we ought to do, into this affair, without having before us the whole thread of that long negociation which has been carried on with the court of Spain, for obtaining redress in an amicable and peaceable manner.

The abuses complained of by the Petitions now before us, are, I must say, Sir, of a most extraordinary nature: they are such as the most pitiful prince in the world would not suffer from the most powerful, without taking the first opportunity for shewing his resentment. By these Petitions we are told, that the Spaniards have not only seized our ships, with their effects, in a most arbitrary manner, but that they have inhumanly treated our seamen. Nay, we are told, that with respect to one ship in particular, though the court of Spain itself has acknowledged her being wrongfully and injuriously seized, yet they have hitherto refused or delayed making any proper reparation, notwithstanding its being now almost ten years since the ship was seized, and near eight years since the court of Spain itself acknowledged the injustice of the seizure.

But why should I talk, Sir, of what has been done eight or ten years ago, or but lately? These insults and abuses have been continued, I may say without interruption, ever since his late majesty's accession to the crown, which is near twenty four years since. This is not the first time that our merchants have been obliged to sue to this House for redress in this affair. In the year 1728 we may remember that application was made to this House, against the many unjust seizures and depredations, that had, for several years preceding, been committed by the Spaniards in America upon his Majesty's subjects, whilst they were carrying on their fair and lawful trade in those parts; and upon that application, this House came then to a resolution, "That from the peace of Utrecht in 1713 to that time, the British trade and navigation to and from the several British colonies in America, had been greatly interrupted by the continual depredations of the Spaniards, who had seized very valuable effects, and unjustly taken and made prize of great numbers of British ships and vessels, in those parts, to the great

* This Debate is taken from the London Magazine.

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loss and damage of the subjects of this kingdom, and in manifest violation of the treaties subsisting between the two crowns: Upon which resolution an address was presented to his Majesty," beseeching him to use his endeavours for obtaining satisfaction and security for our merchants. But what was the consequence? The Spaniards not only refused satisfaction, but continued their depredations; and therefore a new application was made to this House, and a new address presented to his Majesty by this House, in the year 1730, which must now appear to have had as little effect as the former, if the facts charged in the petitions now before us shall, upon examination, be found true.

After having thus stated the case in its proper and true light, I must take notice, Sir, that when we go into a Committee upon this affair, the first thing we enquire into, is, to know whether the facts, as represented in the petitions, are true; for which purpose we must examine the petitioners, and such witnesses, or rather vouchers, as they shall please to bring or lay before us. This we must certainly do; but when we have done this, we shall have heard only one side of the question; for, surely the Spaniards have some pretence for what they have done, or something to say in their own vindication. As there is no war, nor has been for several years, between the two nations, they would not certainly have seized any one ship belonging to British subjects, without some pretence for so doing; and from the wisdom, the penetration, and the courage of our present ministers, I must conclude, that those pretences were such as carried some shew or colour of reason; because if it had been otherwise, I am convinced, our ministers would have advised declaring war against them long before this time. These pretences therefore we must examine into, before we can come to any proper or just resolutions with respect to this affair; and these pretences we cannot examine into without having before us all the letters, memorials, and other papers, that have passed between the two courts upon this subject.

If the facts set forth in the petitions be found to be true, and exactly as represented; and if the pretences made use of by the Spaniards for treating our merchants and seamen in such a thievish and barbarous manner, be found to be frivolous and groundless; the next thing we are to inquire into, is, how it comes that no satisfaction has yet been obtained, and what prospect we now have of obtaining satisfaction? For in such cases there are but three ways of obtaining satisfaction, which are, either by negociation, by declaring war, or by a middle way between these two, I mean that of granting letters of marque or reprisal to such of our subjects as have been injured. The first we have certainly tried; and if that should be now in such forwardness as that a proper satisfaction may, in all probability, be soon expected, I should be against this House's coming to any resolution at present, lest it might disturb or interrupt the course of that negociation; but this we cannot enquire into, without having before us those letters, memorials, and other papers, that have lately, or indeed those that have last passed between the two courts upon this subject. In this case, I say, Sir, I should be against our coming to any present resolution; but if it should appear, that we have now no hopes of obtaining satisfaction or security in a peaceable manner, I must think it would be very proper for us to inquire into what prospect we ever had of obtaining redress by way of negociation, for considering that our negociations for this purpose have continued, or at least ought to have continued, for above these twenty years, I cannot but be of opinion, that we have been bamboozled with fair promises; and in that case I do not know but it may be thought proper to inquire into the nature of those promises, in order to know whether they were such as a prudent man ought to have depended on; because if they were of such a nature, or so often broken, as that no prudent man would have depended on them, I am sure it ought to stir up the resentment of this nation against some other persons, as well as against the Spaniards. This likewise is a piece of knowledge which we cannot come at, without having before us all those letters, memorials, and other papers, that have paased between the two courts, relating to the depredations, insults, and cruelties now complained of.

I think I have now shewn, Sir, that we cannot seriously and thoroughly examine into the grievances complained of in the petitions now before us, or come to any proper resolutions for obtaining redress, without having before us the whole thread of the negotiation between Spain and us, relating to the depredations committed by the subjects of Spain upon those of Great-Britain; but before I make any motion

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for this purpose, I must beg leave to observe, that this very affair has occasioned many complaints among our people, not only against the Spaniards, but against our present administration. Those merchants and seamen who have been plundered and abused, and have been at so much trouble, and so great an expence of time and money, in applying for redress both at the court of Great Britain, and, by encouragement and recommendation from thence, at the court of Spain, are apt to think, that both the honour and interest of their country lie neglected and forgot. Nay, this opinion prevails too much, not only among those who are the sufferers, but also among their friends and acquaintaince, and I am afraid, among all those who have heard or read of these often-repeated depredations. This opinion not only renders our people discontented with our administration, but, what is of much worse consequence, it may render our people disaffected towards his Majesty and his illustrious family; and it must be confessed, that gentlemen who are no way acquainted with the secrets of our public transactions for several years past, do not well know what to say to those who thus complain, or how to make an excuse for the many losses, disappointments, and delays our merchants have met with.

This inability which most gentlemen in the kingdom are under, must be a real grief to all those who have a true regard for his Majesty, or for the royal family. This, Sir, of itself is, in my opinion, a sufficient argument for gentlemen's being desirous to examine into the late negociations, that have passed between Spain and us. I hope every gentleman will from thence see, that every thing has been done for obtaining satisfaction for past injuries, and security against future, that could be done by a wise king and a disinterested administration. From thence every gentleman will be able to give a satisfactory answer to all those who think they have reason to complain; by which means, disaffection will be prevented, and those discontents, which I am afraid fall heavily at present upon our own administration, will then, I hope, be all converted into a just resentment against the shuffling, and repeated breaches of faith, which the Spaniards have been guilty of. This, I say, Sir, will, I hope, be the consequence of having these papers laid before us; but whatever may be the consequence with respect to those who have been entrusted with our administration, I am sure every gentleman will see, and from thence will be able to convince others, that his Majesty has all along acted the most prudent part, according to the information he has had from time to time; which will of course remove every ground of disaffection; and this is what, I am sure, the majority of this House have chiefly, if not solely, at heart; for the majority of this House will, I hope, always have a much greater concern for vindicating the honour of their sovereign, than for screening or concealing the faults of any of his ministers, either abroad or at home.

In full confidence of this, Sir, I presume the motion I am to make will be unanimously agreed to, and therefore I shall add no more, but move "That an humble Address be presented to his Majesty, that he would be graciously pleased to give directions for laying before the House Copies or Extracts of the several Petitions, Representations, Memorials, and all other Papers relating to the Spanish Depredations upon the British subjects; which have been presented to his Majesty, or delivered to either of his Majesty's principal secretaries of state since Midsummer last; together with Copies or Extracts of such Memorials or Representations, as had been made either to the king of Spain or his ministers; and the Answers returned by them to the same; and together with Copies or Extracts of the Letters written to his Majesty's minister at Madrid, with the Answers received from him relating to the said Depredations."

This motion being seconded by Mr. Alderman Perry,

Sir *Robert Walpole* rose and said:

Sir; I do not stand up to oppose the hon. gentleman's motion, because there are many papers have passed between the courts of Great-Britain and Spain, relating to the subject of complaint now before you, which it may be proper for the committee to see; but there are certainly some which you ought not as yet to call for; and therefore I must think the motion rather too general and extensive; for though we have a full and unlimited power of addressing for whatever we may think proper, yet we ought never to desire any thing but what the crown may probably be able to comply with, without doing an injury to the public affairs of the nation.

I am sure it cannot be supposed, Sir, that I have any objection, on my own pri-

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ticular account, against calling for any letters, memorials, or other papers, that have been contrived and drawn up by the court of Spain: I am no minister at that court, nor can it be said that I have the least influence on any of their councils; and therefore I cannot be made to answer for any step they have been pleased to take, relating to the thing now before us. If I had had the least influence on any of their councils, I am sure I would have advised them, even for their own sakes, to have observed a very different sort of conduct with respect to this nation. In my opinion, if the Spaniards were governed by prudent councils, if their public affairs were under the management of those who had nothing else in view but the true interest of that kingdom, they would find it as much their interest to avoid picking quarrels with us, as it is our interest to avoid picking any quarrel with them. They would have long since found, and they may probably at last find, to their cost, that their own proverb will always hold true, 'Peace with England, and war with all the world besides.' This has long ago become a sort of proverb in the Spanish language, and will always be found to be a just and a prudent maxim; for it is the interest of both nations to be well with one another; but nations have often the misfortune to be governed by those, who have nothing less in view than the interest of that country they govern.

For this reason, Sir, every gentleman must allow, that a war with Spain ought to be avoided if possible; and as his Majesty has not as yet told us, that he has given over all hopes of obtaining redress by negotiation, we ought to take no step, nor call for any paper, that may render ineffectual, or perhaps put an intire stop to all future negociation. We cannot suppose that any step taken by this House, or any paper laid before us, can be kept a secret, because there are generally great numbers of persons present, besides those who have a right to be here. This, I say, can never be supposed; and therefore it has always been observed as a rule in our proceedings, never to call for any paper relating to an affair then in agitation. The last memorial or answer from Spain is a paper of this nature: it arrived but on Saturday last; and, I believe, I may venture to acquaint the House, that it is far from being satisfactory; but if kept private, and no violent measures taken in the mean time, it may be explained so as to render it satisfactory, by which means an open rupture will be prevented: whereas, if it should be laid before this House, it may inflame the nation, or even this House, so much, as to hurry us into some violent measures; and even suppose we should be able to govern our resentment, yet the rendering it public, which would certainly be the consequence of laying it before us, might make the Court of Spain think their honour concerned in adhering peremptorily to the terms of this answer, without giving such explanations as they might otherwise in prudence be induced to give.

I shall most readily agree, Sir, that our merchants and seamen have been often treated most unjustly and most inhumanly by the Spanish Guarda Costas, and that both the honour and interest of the nation are deeply concerned in obtaining reparation for past injuries, and a proper security against being exposed to any such in time to come; but we certainly ought not to have recourse to arms as long as there is any prospect of obtaining redress in a peaceable manner. It is without doubt a very popular way of arguing to talk highly of the honour, the courage, and the superior power of this nation; and, I believe, I have as good an opinion of the honour, courage, and power of this nation, as any man can, or ought to have; but other nations must be supposed to have honour as well as we, and all nations generally have a great opinion of their courage and power. If we should come to an open rupture with Spain, we might in all probability have the advantage; but victory and success do not always attend upon that side which seems to be the most powerful; therefore an open rupture, or declared war, between two potent nations, must always be allowed to be an affair of the utmost importance to both; and as this may be the consequence of our present deliberations, we ought to proceed with great coolness, and with the utmost caution.

Prudence and pusillanimity, Sir, are two words which are easily understood in private life; but in public life, and in national affairs, it is not so easy to form proper ideas for these two words, and to determine the exact boundaries between them. If a private man should think his honour injured, he may, he ought to resent it immediately; because, as he has nothing but his own life to lose, his own opinion is a good and a sufficient reason

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for putting it to the venture: but in national quarrels the lives of many thousands are concerned; and those who are to deliberate and determine in what manner, or how soon, an injury ought to be resented, are generally those whose lives, in case of a rupture, will be the last of being brought into danger. For this reason, they ought not to depend so much on their own opinion; nor ought they to insist upon such punctilios as may be insisted on in private life. They ought to consider the circumstances of both nations, and they ought to weigh thoroughly the probable consequences; for it may sometimes be the interest of a nation to pocket an affront, or at least to defer their resentment, till they find a more proper opportunity for taking vengeance. This is what we cannot be competent judges of, even though we had all the papers now moved for before us; because from them we could not guess how we stand with respect to the other powers of Europe. We could not from thence know, but that our coming to an immediate rupture with Spain might unite several powers against us; and, in that case, surely, it would be madness in us to call for any paper, or to make any step, which might hasten that rupture.

From this consideration it must appear, Sir, that even with respect to a nation, whose friendship we have no reason to be fond of, it may not at all times be proper to shew an immediate resentment; but with respect to a nation whose friendship we have reason to be fond of, and not only a nation we ought to endeavour to be well with, but likewise a nation whose real interest it is to cultivate a friendship with us, we certainly ought not to be quick in shewing our resentment, upon every misunderstanding that may happen between us. If such a nation should be hurried into wrong measures with respect to us, either by the particular circumstances they happen to be in, or perhaps, by weak or treacherous councils, there may be many reasons for our delaying to shew a proper resentment; because the circumstances they are in may alter, or they may come to be governed by more prudent or more upright councils, in which case they will court are conciliation, and for that purpose will be glad to make us all the reparation they have in their power. This will certainly be the case with Spain, as soon as they begin to consider seriously, and to pursue solely that which is the true interest of the Spanish nation in general. The present misunderstandings between us, would then be easily and speedily removed; whereas if we should hurry ourselves into a war with that nation, the violences, rapines, and massacres, which would be committed on both sides, might establish a sort of national enmity and hatred between the people of the two kingdoms, which both courts, if they were never so well inclined to each other, might find difficult to remove for many years after.

For this reason, Sir, we ought to avoid as much as possible coming to an open rupture with that nation in particular; and, therefore, I do not know any great necessity there is for our calling for any papers; for I do not think we can come to any resolution upon the present occasion, except that of addressing his Majesty to take those measures which he may, in his great wisdom, think most prudent and necessary, for obtaining redress to his injured subjects. I hope no gentleman will think, that this House ought to declare war against Spain, or that we ought to advise his Majesty to declare war, till he applies to us for our advice upon that head. Such a proceeding would not only be an encroachment upon one of the most certain prerogatives of the crown, but it would likewise be a sign of great rashness and imprudence; for no man can prudently give his advice for declaring war, without knowing the whole system of the affairs of Europe as they stand at present, and how the several Potentates of Europe now stand affected towards one another. It is not the power of Spain, and the power of this nation only, that we ought in such a case to consider and compare: we ought likewise to know what allies our enemies may have, and what assistance we may expect from our friends; neither of which we can know from the papers now moved to be called for, if they were all laid before us; therefore we must leave it entirely to his Majesty, to take the most prudent measures for obtaining redress; and, when his Majesty finds that no peaceable measures will prevail, he will without doubt apply to this House for advice as well as assistance; and, will then certainly give the House all the information that may be necessary for giving us a full view of our circumstances both abroad and at home.

From what I have said, Sir, I hope gentlemen will be of opinion, that we can come to no resolution upon the present occasion, but that of addressing his Ma-

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jesty in much the same terms this House has heretofore done upon a like occasion; and this, I am convinced, every gentleman will think we may do, without having before us any of the answers from the Court of Spain, especially that which arrived only on Saturday last. There is, therefore, not the least occasion for our calling for that paper; if we do, we may have reason to repent it; but, I am sure we can never have occasion to repent our not calling for it; because, we may hereafter have that, and every other paper relating to the affair now in hand, laid before us; and, if any of his Majesty's ministers, either abroad or at home, have been to blame, or have injured the nation by their ignorance or neglect, or by any criminal step, in the course of these negociations, it will then appear; and the person guilty may be punished according as the House shall then see just; for no one of his Majesty's ministers either does, or can expect to have his failing skreened or concealed by a British House of Commons; I hope no one of them has any occasion for such skreening or concealment.

As for the discontents that may be in the nation, on account of the depredations committed by the Spaniards, I cannot think that any of them are directed against the administration; I am sure they cannot with any justice be so directed; and therefore, I am convinced, that none of them are so directed by any person who is not disaffected to his Majesty, as well as discontented with the administration. But I hope most of them are levelled where they ought only to be levelled; I mean against the Spaniards, who have been guilty of, or have connived at, those depredations; for even from the papers we have already seen, I must be of opinion, that our ministers, both abroad and at home, have been at as much pains as it was possible for them to be at, and have used all proper means for convincing the court of Spain of their error, and for prevailing with them to make full reparation. This, I say, I am convinced of from the papers now upon our table, which in my opinion may furnish any willing mind with matter sufficient, not only for vindicating his Majesty's government from any aspersion that may be cast upon it by the disaffected, but also for vindicating the measures pursued by the administration. With respect to his Majesty's government, though there are some without doors who, for the sake of spreading disaffection, are ready to impute the most casual misfortunes, to some fault or neglect in his government; yet I am sure there is no gentlemen within doors, who will not be ready to vindicate it upon every occasion; but with respect to the administration, I cannot say so much: I am afraid there are some within doors as well as without, who are not very willing to vindicate it upon any occasion, and who upon most occasions are even unwilling to admit of those excuses, which the administration may justly lay claim to.

As I do not oppose calling for any papers, in which our administration can be supposed to have a concern, I hope, what I have said, Sir, will have the more weight. If I opposed calling for any papers that have been penned or advised by any of our ministers, it might perhaps be suspected that my opposition proceeded from some selfish end, in order to prevent an enquiry into my own conduct, or into the conduct of some of my friends; but as I oppose calling for some of those papers only which have been penned and advised by the ministers of Spain, I cannot think my opposition will be liable to any such suspicion; I hope it will be thought, I have nothing but the good of my country in view. I really think, and I protest I speak it sincerely, I say, I really think it inconsistent with the interest of the nation, to call for any paper so lately arrived, as the last dispatch which came from the court of Spain to this court. It may be attended with terrible consequences, not only in the case now before us, but in many future cases, because it will be a dangerous precedent for all time to come. Who knows, Sir, should we make a precedent of this, but that a future House of Commons may assume to themselves a power of calling for papers during the dependance of a negociation; and if this should ever come to be our case, I am sure no foreign prince or state will ever enter into any secret negociation or treaty with our government, the consequences of which I shall leave to every gentleman to form to himself a notion of; for they are beyond what I can pretend to express.

I am far from thinking, Sir, that a negative ought to be put upon the motion the hon. gentleman has been pleased to make; but from what I have said, I hope even he himself will be convinced, that his motion ought to be confined, and that therefore he will agree to the amendment I am to propose; for in the affair now before us, it will be a great advantage to the nation, and

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therefore I wish, that we may proceed in every step with the greatest concord and unanimity. The Amendment I propose is, That those words which relate to the answers from Spain may be all left out; and in that case the latter part of the motion will run thus: "Together with copies or extracts of such memorials or representations, as had been made, either to the king of Spain, or his ministers; and of the letters written to his Majesty's minister at Madrid relating to the said depredations."

Mr. *Pulteney* spoke next:

Sir: The motion made by my hon. friend over the way, is not only so just in itself, but so much calculated for vindicating the conduct of the hon. gentleman who spoke last, that I wonder to hear him oppose calling for any papers, or any one paper that can be supposed to have the least relation to the subject of complaint now under our consideration. If I were to advise him, and I speak it with the utmost sincerity, I would advise him, for his own sake, as well as for the sake of the nation, to advise laying the affair fully before the parliament, in order to have the advice of parliament upon such an important occasion. We have in this kingdom several councils; we have a privy council; a cabinet council; and, for what I know, a more secret and less numerous council still, by which the other two are directed: but the parliament is his Majesty's great and chief council: it is the council which all ministers ought, both for their own sakes and their masters, to advise his Majesty to consult with, upon every affair of great weight and importance; for, from all our histories we shall find, that those kings have been the most happy and glorious, who have often consulted with their parliaments; and that those ministers have always gone through their administration with the greatest ease and applause, and have divested themselves of their power with the greatest safety to themselves, which seldom happens to any but those who have advised their masters to depend chiefly upon the advice of their parliaments.

In our privy council, Sir, in our cabinet council, and in any more secret council, if there be any such, the hon. gentleman may be supposed to have a sway; nay, it may be even suspected that he has, under his Majesty, the chief direction of each; and therefore he may, some time hereafter, be made to answer for their determinations; but it cannot be suspected that he has the direction of either House of Parliament, nor are we to presume that he has any other sway in this House, but that which proceeds either from the solidity and strength of his arguments, or from his superior art of persuasion: For which reason he can never be made to answer for any resolution of parliament, or for any thing that is done pursuant to the advice of parliament. In all cases therefore he ought to be fond of having the advice, or at least the approbation, of an independent and free parliament; but more particularly in a case such as the present, where the most prudent councils may not be always attended with the wished-for success. In such cases, I say, more particularly, he ought in common prudence to chuse and desire, that his conduct should proceed from the advice and the resolutions of parliament; because, whatever may be the event, he cannot be made to answer for our conduct, nor can he be blamed even by those who judge of things only by the event, which is the case of the greatest part of mankind, in this as well as every other country.

I am very sensible, Sir, the hon. gentleman is no minister in Spain; I believe he has but very little, if any direct influence upon that court; and I am sorry it is so, because if he had any power over their councils, I find he would have advised them to have acted in a very different manner towards us, and in a manner more consonant to their own honour and interest as well as ours: but yet I would not have him to depend so much upon his never being brought to answer for any of those memorials or answers, that have been drawn up, or any of the measures that have been pursued by the court of Spain, because both might, and, I believe, did very much depend upon the memorials or representations we sent them, and the measures we pursued; and if by any fault or mistake in our conduct, they have been induced to send us wrong or evasive answers, or to pursue measures that were contrary to the honour or the interest of this nation, those who were the authors and advisers of our conduct towards them, may justly be made to answer for their conduct towards us; especially as no part of our past conduct can be said to have proceeded from the advice, or from the resolutions of parliament. When I say this, Sir, I would not have it thought, that I intend to blame any part

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of our late conduct towards Spain, or to charge any gentleman with having been the author and adviser of that conduct. This is what neither I nor any gentleman can do, till he has fully and thoroughly enquired into the affair now before us, and particularly the papers now called for.

The interests of trade and our situation, Sir, makes a friendship betwixt this nation and the crown of Spain, to be wished for by every honest Englishman, and by every true Spaniard; but, Sir, if we have neglected to cultivate a friendship with that nation, or if it should be found, that we have even wilfully or causelessly disobliged them, for the sake of cultivating a friendship with other nations, whose friendship can never be of any great service, but has been still found ruinous to this nation, or for the sake of encouraging or protecting a particular set of men amongst ourselves, I believe it will be generally agreed, that the authors and advisers of such a conduct, ought to be enquired after by, and aught to fall under the censure of, a British parliament: I believe every man will likewise agree, that we cannot, in justice expect reparation till we are ready to give it; and that, if we were the first to offend, we ought to be the first to offer an atonement. I am far from thinking that this is the case, but I am sure it will be allowed, that it may; and surely, this House can come to no resolution, with respect to the affair before us, till we know whether this be the case or not. Now, I would be glad to know, how it is possible for us to determine, whether this be the case or not, till we have seen all the memorials, answers, and other papers, d awn up by the court of Spain upon this head; for from these, and these only, we can acquire a sufficient knowledge of the demands they have upon us, or the complaints they make against us.

It is true, Sir, we cannot presume that any paper laid before this House can be long kept a secret, nor can we tell whether the last answer from Spain be a paper which ought to be kept secret. The hon. gentleman has been pleased to tell us, it is far from being satisfactory; but if I have been rightly informed, it is something more than dissatisfactory; I have been told it may even in some measure be called menacing and insulting. I shall be glad to find I have been misinformed. I hope it is, as the hon. gentleman says, such a one as may admit of an explanation. But I am sure, if a negociation of twenty years has not been able to procure a satisfactory answer, or proper explanations, it is high time for us to take other measures; and, no measure can be more effectual than an explicit and strong resolution of a British parliament. Such a resolution has always hitherto had a great effect upon the councils of most states in the world, especially such as have any territories bordering upon our dominion in the ocean: I hope it will still have the same effect; for whatever little divisions may be amongst us, with respect to our own domestic affairs, I am convinced those divisions will never prevent our shewing a firm resolution of being unanimous against any foreign power, that shall dare to encroach upon or insult us. Upon such occasions, I hope, we will always shew ourselves as ready to support the honour of our King, as he is to support the interest and just rights of his people.

It may, Sir, have been generally observed as a rule in parliament, not to enquire into any foreign affair while it is upon the anvil; but, even this rule is not without exception, especially if any affair should be continued too long upon the anvil; for its being so, may be a good reason for a parliamentary enquiry. But, after either House of Parliament has resolved to enquire into any affair, foreign or domestic, was it ever pretended, that they ought not to call for every paper necessary for giving them a full light into that affair? does not every one know, that it has always been, and always must be, the custom of this House, when any affair is, according to order, to come before us, to call for all papers which we can suppose to have any relation to that affair? in such cases, if among the papers called for, there be any which ought not, for the sake of public good, to be exposed to public view, it is the business of the crown to tell us so; but, this is an answer we ought not to take from any of our own members, let him know ever so much of the secret of affairs. That, Sir, is a knowledge I do not envy him for; but I speak as a member of this House, and therefore say that no gentleman can take upon him to dictate what papers are proper, and what are unproper for our inspection. The answer last arrived from Spain is certainly a paper which relates to the affair we have resolved to enquire into; it is, in my opinion, the most principal paper, and a paper without which we cannot come to any proper resolutions; therefore we certainly ought to call for it;

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and, if it be of such a nature as that it ought not yet to be made public, his Majesty, in his answer, will certainly tell us so. When his Majesty has told us so, we may then consider, whether it may not be proper for us to put off an enquiry into this affair, till we can have a sight of that paper; but, till we have such an answer from the crown, and from the crown only it is that this House can take such an answer, there cannot, in my opinion, be any colour of reason for our not calling for a sight of it. What the answer from the crown may be, I shall not pretend to guess at; but I must say, I cannot at present suggest to myself any one reason for thinking that answer of such a nature, as that it may not be safely communicated to this House. If it be merely dissatisfactory, it can neither inflame nor hurry us into any violent measures; and if it be menacing or insulting, it ought to be exposed for that very purpose. In private life, a man may be my friend, and may have been so for many years; but, if once he begins to menace or insult, from that moment he ceases to be so; and nothing but an abject, sordid spirit, will patiently submit to such treatment, for the sake of any self-interested view whatever.

There is therefore, I think, Sir, not the least foundation for being afraid, lest our resentment should be stirred up beyond its just bounds, by that paper's being laid before us; and, as for the honour of the court of Spain, I wish some gentlemen may not have had both formerly and of late too great a regard for it: I wish they may not have sacrificed some of the most substantial points of English honour, to some of the most romantic punctilios of Spanish honour. For my part, I shall always think, that, in national affairs, as well as in private life, even the punctilios of honour ought to be insisted on, when we have to do with those who, on their parts, do insist upon them; for then they become material. But, Sir, as I shall always have a much greater regard for the honour of this nation, than for that of any other, if the court of Spain, or any other court in Europe, should entertain such whimsical notions of their honour, as might prevent their doing justice to us, I should think it inconsistent with the honour of this nation, not to take such measures as might be proper for giving them different notions, both of their own honour and of the justice that is due to us.

I am as much averse, Sir, to the involving of this nation in a war, especially with Spain, as any gentleman can be; and therefore, notwithstanding the many injuries and insults we have suffered, I am am against coming to an open rupture, if there be any reasonable hopes left of obtaining a proper redress in a peaceable manner; but, for God's sake, Sir, when are these hopes to be at an end? In this respect, I am sure, it cannot be said, but that we have already hoped sufficiently; we have hoped, and hoped, and hoped again; but, by what yet appears, we have, I think, hitherto hoped in vain. What if we should now put a period to our pacific hopes, and begin to put on other hopes, I mean those of acting such a part as may become a brave but injured people: It is true, that means may be fallen upon to disappoint even those hopes. Nay, Sir, it is certain that no nation can be assured of success, even in the justest quarrel, and supported with the greatest force, but will this uncertainty ever be a reason with any brave man, or powerful nation, to bear tamely with repeated injuries and insults? When there is a just cause for war, we ought certainly to take all prudent and necessary measures for securing victory on our side, and when we have done so, we must trust the event to Providence. Now, Sir, I should be glad to know, whether, in our deliberations on this affair, we are to enquire what reasonable hopes, we may have of obtaining redress in a peaceable manner; because, if this be one of the points that is to fall under our consideration, and that it is, I can hardly think any gentleman will seriously deny, it is absolutely impossible for us to determine this question, without seeing the last answer from Spain: and therefore, it is absolutely necessary for us to call for that answer in particular, if we are seriously resolved to make a thorough enquiry into this affair, and to come to such resolutions as may be worthy of a British parliament.

Prudence and pusillanimity, Sir, in private life, is what every gentleman well knows to be widely different, and even with respect to national affairs, are not words of such an intricate or unintelligible nature but that they may be understood by parliaments as well as ministers. Even a parliament may avoid pusillanimity, without running into rash or precipitate measures: and if our cabinet, or any other of our private councils, have been guilty of pusillanimity, our parliament may correct it by their prudence. The wisdom of

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parliament, is the wisdom of the nation; and in all national affairs of great importance, surely the wisdom of the nation ought to be consulted. We are not to conclude, that such a step must necessarily and unavoidably throw us into a war; and much less are we to conclude, that the laying of this last answer, or any answer, from Spain, will necessarily produce such an effect. On the contrary, a strict parliamentary enquiry into this affair, may prevent an open rupture. The court of Spain, if it is in the wrong, will then see we are serious; they will from thence conclude, we are no longer to be dallied with, and may probably shew more respect to the interposition of parliament, than they have ever shewed to the negociations of our ministers. If they are not in the wrong, which may be the case; for though they have certainly done us many and great injuries, yet their having done so, may, for what we know, proceed from our having first done injuries to them; and their refusing or delaying to make reparation to us, may proceed from our refusing or delaying to make, or so much as to offer, any reparation to them: If this be the case, if our ministers have been guilty of any misconduct or unjust obstinacy in this respect, which I am far from suspecting they have, we cannot expect that they will immediately, and of themselves, acknowledge their error, and change their conduct; but whatever faults they may have this way been guilty of, will certainly, upon a proper enquiry, be rectified by the resolutions of parliament; so that by laying this affair fully before parliament, a war may be prevented, which would otherwise be unavoidable; but without a thorough enquiry into the disputes between Spain and us from first to last, we cannot discover whether our ministers have been guilty of any misconduct or unjust obstinacy, and consequently can come to no proper resolutions for rectifying their mistakes; and I am sure, without seeing every paper that has passed between the courts relating to these disputes, we can make no thorough enquiry.

Lord *Polwarth* said:

Sir; My hon. friend has so fully opened the reasonableness of the present motion, and so clearly answered the right hon. gentleman over the way, that I am persuaded I need to say very little. It is very true, Sir, as the right hon. gentleman seems to insinuate, that we cannot guess from the papers now called for, how the other powers of Europe stand affected towards us, or what assistance either we or the Spaniards might expect from any of them, in case of an open rupture between the two nations. But as the disputes between Spain and us, have been depending for above these 20 years; as the obstinacy of the court of Spain has been very great, and as the interests which we have depending upon a satisfactory accommodation of these differences are very great; we cannot but suppose, from the known wisdom and foresight of his Majesty's ministers, that care has been taken, by proper treaties and alliances, and by the many negociations we have lately carried on, to provide and secure to us all the assistance we may stand in need of, or at least to prevent any other power in Europe from endeavouring to support our enemies, in any unjust measures they may have been guilty of towards us. But suppose it were otherwise, which I am sure no gentleman will willingly suppose; are our merchants to be plundered, and our seamen cruelly used, for many years together in the time of profound peace? Are they to come frequently to parliament with complaints of such treatment? And is a British Parliament always to content itself with presenting an humble Address to the throne, praying that his Majesty would use his endeavours, for obtaining satisfaction to his injured subjects?

Sir; this would be inconsistent with the honour and the duty of parliament. In the case of a domestic grievance, if the parliament should address to have it removed, and if, several years after, a petition should be brought to parliament, representing that notwithstanding their address, the grievance remained, and was more heavy and frequent than before; what then would be the business and duty of parliament? Would not they be in honour obliged to enquire, how it came that the grievance was not removed, to enquire at whose door the fault lay, and to punish those who had been guilty? With respect to any foreign grievance, our duty is the same. The grievances, the injuries now complained of, and so often before complained of, are such as no nation ought patiently to suffer, if there be any way of redressing them, either by fair or foul means; and if there be no way of redressing them, if by any misconduct the nation be brought into such a melancholy state, that we must suffer them, which God for-

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bid! The parliament ought to enquire into the affair, if not to find a remedy, at least to punish those who have made our case remediless. Therefore I must think it incumbent upon us, to proceed now a little further. We have twice already addressed for having this grievance removed: it is now high time for us to enquire, how it comes that it has not been removed: but if we should be so good-natured as to rest satisfied with presenting a third humble address, surely that address ought to be in different terms from any of the former. I shall not pretend to tell what we ought to do, or in what terms we ought to address, nor can any gentleman pretend to tell, till he has seen and deliberately examined every paper relating to this affair.

The hon. gentleman over the way seemed to be in a mighty panic, as if we could not agree to this motion without breaking with Spain. For my part, Sir, I have very few apprehensions of that kind: not that I should wish, that we were to plunge ourselves inconsiderately into a war with Spain: but, I believe, the court of Spain knows too well the way to prevent things coming to an open rupture. They at the same time know what the consequence of going to war with us at present might probably be. Therefore, Sir, though we were to see these papers, and to come to some vigorous resolutions, I am afraid they might, by a few fine glossing overtures, bring us to treat again, and then we should be just where we are now. But, Sir, let us suppose that we should go to war; yet I do not foresee any bad consequences for the nation, for a just and casual war never produces a settled enmity between two nations: nothing but a perpetual clashing of national interests, can produce such a one; and even though a war should produce such an enmity, it will always be more for the interest, as well as honour, of this nation, that the people of Spain should hate and fear us, than that they and every other nation in the world should contemn and despise us.

I should be extremely sorry, Sir, to think that all those who complain of our long sufferings, with respect to the depredations committed by the Spaniards, are such as are disaffected to his Majesty and family: it would be a melancholy and a dreadful prospect, to every man who has a true regard for our present happy establishment; but I am sure they are not. I know many of them, who would venture their lives and fortunes for the support of our present establishment, with as much alacrity as they would venture them in revenging the insults, that have been lately put upon us by the Spaniards. Most of those who complain are fully sensible, and most will readily acknowledge, that his Majesty can be no way to blame in this affair. They know how ready he is, upon every occasion, to vindicate the honour of his crown, or assert the just rights of his subjects; but I doubt much if any of these people will make the same acknowledgments with respect to all his Majesty's ministers. Who are to blame, or what way they are to blame, those who complain do not know, nor can I tell them, till I see the papers now called for; but considering the power of this nation, when compared with that of Spain, and considering the many opportunities we have lately had, for obtaining or compelling from Spain a full satisfaction and security, every man concludes, that some persons amongst ourselves must be to blame, for our having so long and so patiently submitted to such indignities. If the hon. gentleman has a mind to remove all cause of suspicion from himself, the best thing he can do is, not to oppose any thing that may tend to the clearing up of this affair; and therefore, I think, if he has any regard for the opinion his countrymen may entertain of him, he ought to withdraw the amendment he has been pleased to offer, and join with us in calling for the late answer from Spain, as well as every other memorial or answer they have sent us upon the same subject.

What may be in the papers relating to this affair, which are now upon our table, or what justification any gentleman in the administration may expect from any of them, I do not know; for, I neither have been at the pains to examine them strictly, nor shall be at any such pains, till the whole be laid before us; and, I hope, the hon. gentleman will not think, that this neglect or indolence in me, proceeds from any unwillingness to vindicate him or any other gentlemen concerned in these transactions; but really from an opinion, that I cannot make myself master of the affair, or pass any judgment relating to it, till the whole be laid before the House; and, when that is done, I can assure him, I shall be extremely glad, though I must say, I shall be a little surprized, to find, that we have been guilty of no mistake or blunder, in this long, tedious, and ge-

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plexed negociation. If this should be the case, it must be allowed, that, if we have not, within these twenty years, added much to our character of fighting, for which we were always famous, we have acquired a new character, for which we were never famous, I mean, that of being cunning negociators, and cautious treaty-makers; this at least is some comfort to the nation; and if our long negociations with the court of Spain have been carried on with the firmness, the resolution, and the prudence, which so delicate, so material, an affair required, I shall then congratulate the hon. gentleman upon the new honour the nation has acquired by his means, or by the means of some of his friends. However, Sir, I cannot help thinking it somewhat suspicious, that none of the right hon. gentleman's friends have attempted to vindicate his and their own conduct from the papers lying upon our table, since they seem to think it would be very easy to do it. This I think would be of very great service to him; and I am sure it cannot be said, he wants friends, who have hearts to undertake, and heads to execute such a design, in the most elegant, the most polite, and the most convincing manner.

Upon the whole, Sir, there is nothing can contribute more to the good of the nation, nothing can so effectually prevent our being obliged to come to an open rupture, as our shewing that we are unanimous, and peremptorily resolved to be at the bottom of our present disputes with Spain, and to put an immediate end to them, either by the pens of our ministers, or the mouths of our cannon. If we begin, in the very first step, with mincing the matter, and seeming to be afraid, lest we should disoblige the court of Spain, by any resolution we may come to, no man either abroad or at home will believe we are serious, nor will the court of Spain think of making any new offers, or giving plain and explicit answers. Therefore, if there were no necessity for our seeing the last answer from Spain, I should be for calling for it, for this reason only, because it has been moved for.

The calling for the last answer from Spain, Sir, or any other paper relating to the affair we have agreed to enquire into, is not against any rule observed in our proceedings; it can be attended with no present danger, nor can it be a precedent of dangerous consequence in time to come; because, all those papers, and the last answer in particular, are absolutely necessary for the enquiry we have resolved to make. If gentlemen indeed will say, that an enquiry is improper and needless, with all my heart, let them put it on that footing; but it would be ridiculous for us to think of enquiring without seeing every paper that has been sent from the court of Spain.

What interest, Sir, or what private end, the hon. gentleman, or any of his friends, may have, or if they have any, for concealing any Memorial or Answer from Spain, I shall not take upon me to determine; but, I have already shewn, that he and his friends are not absolutely unconcerned, even as to the papers that have been penned or advised by the court of Spain; because the measures of every court are always influenced by the measures of others, especially those with whom they negociate: Therefore, his present opposition may afford some suspicion of his being afraid, lest the laying of those papers before the House should occasion an enquiry into his conduct, or into the conduct of some of his friends; but, I am far from conceiving any such suspicion; I hope his conduct and behaviour has in this respect, as well as every other, been so wise and upright, that he fears no impartial enquiry into his own conduct; and, I cannot allow myself to think he would desire to prevent an enquiry into the conduct of any of his friends; because if they have behaved in the same manner he has done, an impartial enquiry into their conduct would redound to their honour; and, if any of them have behaved otherwise, I am sure he would scorn to think of endeavouring to screen the guilty.

Having said thus much, Sir, I shall conclude with my earnest wishes, that the House would agree with my hon. friend's motion; indeed I think it will be for the honour of parliament, and, I hope, the hon. gentleman has no private end to serve by opposing the calling for, or even publishing any one of them; therefore, for the sake of unanimity, and for the sake of persuading the world that we are serious in what we are about, I must hope, he will withdraw the amendment he has been pleased to offer, and agree to the motion as it was at first proposed.

Mr. *Horace Walpole* said:

Sir; Though it would be very reasonable to put off the consideration of so important an affair, and so unexpectedly brought before the House, as the present motion has been, to another day; yet, as

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the right hon. gentleman, who is principally concerned in the fate of this question, has made no motion for that effect, neither shall I, but proceed to consider what has been advanced by the hon. gentleman who spoke last against the Amendment. I must say, I am glad to hear the hon. gentleman who spoke last, acting so much the part of a friend towards the hon. gentleman that spoke before him, as to offer him his sincere advice. Whatever advice the hon. gentleman may be pleased to offer, either upon this or any other occasion, will always, I am convinced, be gratefully received, and will be of great weight with my hon. friend near me; but, in the present case, I doubt much if his advice will be taken; I do not, indeed, think it ought. I shall readily grant that in all cases a man ought to consult, and have a regard to his own safety, and that he ought to chuse that method of speaking and acting, which will least expose him to danger; but, in all matters of a public concern, I hope it will be allowed, there is a superior consideration: the safety of a man's country is what he ought to prefer even to his own safety; and every gentleman in this House, especially those gentlemen who pique themselves upon their patriotism, will certainly do so upon all occasions.

Considering the uncertainties of war, as well as the uncertainty of all events which depend upon foreign negociations; and, considering how much the judgment of the inferior sort, and the resolutions or behaviour even of the better sort, depend upon the event of things; I do not know, Sir, but that, if my hon. friend near me consulted only his own safety, he would take the advice that has been given him: He would chuse to have our future conduct proceed from the resolutions of parliament, and would for that end advise laying every paper relating to the affair now under our consideration before parliament: but if he really thinks, the laying of all those papers before parliament would tend to the prejudice of his country, he ought to oppose it, whatever may be the event of that opposition with respect to himself; and if, in such a case, for the sake of his country, he runs the risk of drawing upon himself the resentment of his country, it must be allowed, he acts the part of a true patriot.

I know, Sir, the part which the hon. gentleman upon the floor has acted all along in the difference betwixt Spain and us, to be such as gives him no room to fear any discovery to his disadvantage, from the papers that have been moved to be laid before us. Therefore, Sir, the right hon. gentleman's opposition to this motion, must proceed from other motives than personal fear. I am convinced, Sir, that he is persuaded, that if the least answer from Spain were laid before us, it would produce consequences inconsistent with the peace of Britain: and I own, Sir, that I myself am of the same opinion; I am of opinion, Sir, that our calling for these papers is absolutely against the usual forms of our proceeding; for I believe there is no precedent of this House having called for any paper that relates to a negociation, while the event of that negociation was in suspense. Therefore, Sir, by our calling for all the papers relating to this negociation, we shall in effect tell the world, that we are of opinion, that his Majesty's endeavours to procure an honourable and safe peace, are disagreeable to the nation, and contrary to the sense of parliament. For, I believe no nation would publish such papers with any other view, than that of breaking off all future conferences upon that subject; and the state with whom they had been in negociation, would certainly look upon it as done with that design, and would therefore resolve not to treat with them any longer in a friendly and peaceable manner: therefore, if it be more for the good of the nation to have this affair accommodated in a private and peaceable manner, than to have recourse to an open and warlike method, it must be inconsistent with the public good to have all the papers now called for laid before the House.

Sir, the publishing of all the answers from Spain, relating to the affair now before us, would not only be looked upon by them, as done with a design to break off all future conferences upon that subject; but, I believe, it would be looked upon by them as, and would really I think be, a sort of declaration of war. The publishing of those papers, would, in my opinion, be the same with publishing a manifesto; for if war were to be declared, and a manifesto to be published, that manifesto must be drawn up chiefly from those very memorials or answers which are now called for; and I can see no great difference between publishing a manifesto, and publishing the grounds and reasons upon which it must be founded, if ever it be published. The design of such a manifesto, if any such thing were to be published, would be,

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to represent in the strongest light the insults and injuries put upon us by the Spaniards, and the injustice and frivolousness of the pretences they made use of, for behaving in such a manner towards us, or for delaying to give satisfaction; and this can be done only from the papers now called for. As for the insults and injuries we have suffered, they are already too public: they have been published, and, I believe, even aggravated, with great care and industry; and therefore, those papers that give an account of them, may be laid before us without any danger. But as to the pretences made use of by Spain, either for justifying those insults and injuries, or for delaying to give a full reparation and satisfaction, they are not yet publicly known, nor ought they to be made public, as long as there are any hopes of getting the Spaniards, by peaceable means, to pass from the pretences they now make use of, and to make satisfaction for past injuries, as well as to give a proper security against any such in time to come. When we can no longer entertain any such hopes, it will then be time to publish and expose the frivolousness of the pretences they make use of; but this ought to be done only by way of manifesto from his Majesty, in order to justify the force he then finds himself obliged to make use of; and I am sure no manifesto, nor any thing like a manifesto, ought to be published, till till we are prepared to back it with such a formidable armament, as may be suitable to the power of this nation, or necessary for compelling our enemies to submit to reasonable terms; otherwise, Sir, we shall appear not only weak, but ridiculous.

It is very easy, Sir, to talk big, either within doors or without; and, considering the spirit of resentment that has been industriously stirred up in the nation, I know, it would be mighty popular in us, to come to vigorous Resolutions immediately; but I do not know, if it would be mighty wise. I am sure, it would not be wise, as long as there are any hopes of obtaining redress by peaceable means; and even when we are come to an end of all our hopes in this way, we ought not to begin to talk, till we are ready to act. In this we ought to follow the example of that sort of animal which is peculiar to this island; and therefore I am not ashamed to recommend its example to my countrymen: I mean our brave English bull-dog, who always seizes upon his enemy at once, and without making the least noise before-hand. Threatening speeches, or even threatening resolutions, are but words. They are 'vox et præterea nihil;' and therefore the less they are made use of, the better: but if any such are ever made use of, they ought to be instantly followed with suitable actions; for if they are not, those who have injured us, will despise our menaces, and the whole world will laugh at our folly.

When one nation, Sir, has been insulted or ill-used by another, and no redress can be obtained by fair means, it is, without doubt, extremely proper, and even necessary, for those who are concerned in the government of the injured nation, to publish and set the injuries they have suffered in the strongest light. This method has been always thought advisable, as it gives the subject a good opinion of the cause, and makes him contribute with pleasure towards carrying on the war; but this ought not to be done till the court is both resolved and ready to come to an open rupture. Now, as those who are concerned in the government of a nation are the best, if not the sole judges, not only of the time when they ought to resolve, but likewise of the time when they are ready and prepared to come to an open rupture; therefore, in my opinion, they are the only persons that ought to be allowed to endeavour to stir up what is called a national resentment. For this reason, I cannot but think, that some of those gentlemen who have been lately so busy in stirring up the resentment of our people against the whole Spanish nation, have gone a little beyond their sphere: they have been acting a part they were no way qualified for, either by their knowledge of public affairs, or the station they happened to be in. They have been doing all that they could to involve the nation in a war, when, for what they knew, we were in a fair way of obtaining redress by peaceable measures; or perhaps, when our circumstances, neither at home nor abroad, could allow us to come to an open rupture. In either of which cases it must be allowed, they have been doing their country an injury; for, with respect to the former, if we should have obtained, or should yet obtain redress by peaceable measures, they have been doing an injury to their country, by endeavouring to stir up and establish among our people, an enmity to a nation, with which an hon. member, who has spoke in this debate, has owned

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it is our interest to be in perpetual friendship; and even those who should at last be obliged to come to an open rupture, yet they have done an injury to their country, by beginning too early to stir up the resentment of our people; because, when the resentment of a people is too soon stirred up, it is apt to evaporate before it produces the proper effect.

Thus, Sir, it must appear, that those busy intermeddlers in public affairs have been doing an injury to their country, whatever may be the effect of our present negociations; and supposing we were in circumstances proper for encouraging us to declare war: but, if we were not in such circumstances, they were endeavouring to do a most notable injury to their country; for surely, no greater injury can be done to a country than that of involving it in a war, when it has no prospect of being able to prosecute the war with advantage. It was a maxim with Julius Cæsar, never to venture even a battle, if the disadvantages that might ensue from a defeat appeared to be greater than any advantages he could expect from a victory; and in Africa, we are told, that he bore with many insults and indignities from the adverse army, only because by a little patience he had reason to expect being able to obtain a victory with less blood-shed. In resolving upon war or peace, the same maxim ought to be observed; which makes the question of such an intricate nature, that none but those who are thoroughly acquainted with the circumstances of a nation, can, or ought to deliberate upon it: therefore as we cannot pretend to be thoroughly acquainted with the present circumstances of the nation, we ought not to do any thing, nor desire any thing to be done, that may tend towards involving the nation in a war; and till his Majesty acquaints us that he is resolved upon, and prepared for an open rupture, we ought not to call for any paper, that may, for what we know, tend to confirm, and even irritate that national resentment, which has been already most imprudently, if not seditiously, stirred up.

From what I have said, Sir, I think it is evident, that the memorials or answers from Spain, especially the last, are in all probability papers of such a nature, that they cannot yet be communicated to this House. So far indeed I agree with the honourable gentleman, that the House is not obliged to take my word, nor that of any other member, as to the contents of those papers; but it has always been observed as a rule in this House, to call for no papers, but such as we had reason to believe, the Crown might safely communicate to us. Surely we are not to court a denial from the Crown; and upon the present occasion, we ought to be more cautious in this respect than at any other time. Every one knows how loth his Majesty is to deny any thing to his Parliament. Nothing but the public good will ever prevail with him to do so; and even in such a case, it would be with the utmost reluctance and uneasiness. I am persuaded every gentleman that hears me, has such a dutiful respect for his Majesty, that he would not propose or agree to any thing, that might unnecessarily give him a moment's disquiet; but in the present case, a denial from the Crown might be attended with consequences still more fatal. It would make all other foreigners, as well as the Spaniards, who do not well understand our constitution, imagine, that there was no good harmony between his Majesty and his Parliament; which would of course render the Spaniards less pliable than they are at present, and consequently might not only prevent our being able to obtain redress in a peaceable manner, but might even prevent our being able to form proper alliances for obtaining it by force of arms.

It has been said, Sir, that all the papers now called for, are absolutely necessary for the enquiry we have already resolved on. This, in my opinion, is very far from being the case. We have resolved to take the petitions now presented to us into our consideration. In pursuance of this resolution, we cannot regularly enter into any enquiry, but that which relates to the truth of the facts set forth in the petitions; and surely we can expect no proof of those facts, from any of the Spanish memorials. When we have examined into those facts, and found some or most of them to be true, which, I believe, will be the case, such a discovery may give a foundation for our resolving upon another enquiry; and upon that future enquiry, it may be thought necessary for us to see the memorials or answers from Spain. If this should be the case, they may then be called for; but till then, I cannot find we have the least occasion to examine into any one of them.

As for an enquiry into the conduct of those who have been concerned in our late negociations with Spain, gentlemen

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may enter into it when they please; but I hope they would not, for the sake of punishing our negociators, supposing they have been guilty of mistakes, resolve to punish the nation, by involving it in a dangerous and expensive war, which in all probability might have been otherwise avoided. I have had some hand, Sir, in several negociations; but, I think it cannot be said, I had ever any share in any of our negociations with Spain: however, I know something of them, and from what I know, from what is publicly known, I must observe, that some gentlemen seem to be in a surprising mistake as to these negociations. They seem to insinuate, as if we had been negociating with Spain for above twenty years without any effect. Surely, gentlemen cannot have forgot, that, within these twenty years, there have been two public and famous treaties between Spain and us; by each of which they promised full reparation for all past injuries, and that no such injuries should be committed for the future. We all know, that in the year 1721 a treaty of peace was concluded at Madrid between Spain and us, which was the same year confirmed by the treaty of alliance between Great Britain, France, and Spain; that by the second article of the said treaty, "All former treaties were confirmed;" and that by the third Article, his Catholic Majesty expressly promised, "That all the goods, merchandizes, money, ships, and other effects, which had been seized, as well in Spain as the Indies, should be speedily restored in the same kind, or according to the just and true value of them, at the time they were seized."

I am not, Sir, to answer for every step that brought on that treaty; some gentlemen, perhaps, know more of them than I do, but I will venture to say, Sir, that we must from hence suppose, that by this treaty an end was put to all negociations before that time; and that, from this treaty our ministers had reason to expect full reparation for all past injuries, and a security against all such in time to come; but some new differences having afterwards arisen between the two nations, a new treaty was set on foot, which was afterwards concluded at Seville, in the year 1729. By this new treaty a reparation for past injuries, and a security against future, were again expressly stipulated; for, by the first Article, "All former treaties of peace, friendship, and commerce, are renewed and confirmed;" and they expressly promise, "Not to do any thing, nor suffer any thing to be done, that may be contrary thereto, directly or indirectly." By the fourth Article, it is stipulated, "particularly, that the commerce of the English nation in America should be exercised as heretofore; and that orders should be dispatched, without any delay, as well for the execution of the said treaties of commerce as for supplying what may be wanting for the entire re-establishment of commerce, on the foot of the said treaties and conventions." And by the sixth Article it is agreed, "That commissaries should be nominated within four months after the exchange of the ratifications, for examining and deciding the respective pretensions which related to the abuses supposed to have been committed in commerce, as well in the Indies as in Europe, and all the other respective pretensions in America, whether with respect to the limits, or otherwise;" and they promise, "to cause to be executed punctually and exactly, what should be so decided by the said commissaries, within six months after their making their report;" which report they were, by the eighth Article, to make within three years, to be computed from the day of the signing of that treaty.

Accordingly, we know, Sir, that commissaries were respectively nominated; but by various accidents the meeting of these commissaries was delayed till the beginning of the year 1732; and therefore the time for their finishing their commission, and making their report, was prolonged to the end of three years after their first meeting; so that the negociations, upon the footing on which they are at present, cannot be said to have commenced till the beginning of the year 1735, and therefore cannot be said to have lasted above three years; and from considering these treaties, especially the last, and the several steps that have been made by us since that time, it must be granted, I think, that we have done all that a prudent and wise people could do for obtaining, in a peaceable manner, a full reparation for all past injuries, and an absolute security against our being exposed to any such in time to come. If there is any fault therefore, it must be wholly attributed to the Spaniards, who have refused or neglected to perform the repeated solemn engagements they have entered into with us; but with regard to their behaviour towards us, or whether the breaches of promise

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they have been guilty of can warrant an immediate rupture, is an enquiry which cannot come regularly before this House; nor ought we, by our constitution, to attempt any such enquiry: it is an enquiry which ought to be left entirely to his Majesty's wisdom and justice; because, from thence it is that peace or war must be determined; and, I hope, it will be admitted, that our pretending to determine in this case, would be an incroachment upon the prerogatives of the crown.

The parliament, it is true, Sir, is the great and the supreme council of the nation, and consequently it is the council in which our King ought to put his chief confidence, and which he ought to consult upon all important affairs, when those affairs are brought to such maturity, or to such a crisis, as to be ripe for being made public; but, no man will pretend, that the parliament is a secret council, or that any affair ought to be laid before parliament, till it can be safely communicated to the public. Negociations of all kinds are of such a nature, that while they continue in the shape of negociations, they ought to be kept inviolably secret; and, it is for this reason that, by the excellence and wisdom of our constitution, the power of making peace of war is lodged solely in the crown; because, for the good of the nation, it is absolutely necessary, that all the steps we make towards a peace, should be kept secret, till a treaty is actually concluded for that purpose; and likewise it is necessary, that all the steps we make towards a war, nay, even our preparations for war, should be kept as secret as possible, till a war is actually declared, or at least just ready to be declared. In the present case, if our negociations with Spain should end in a treaty, which I hope they will, and I dare say every gentleman here wishes his country so well as to hope the same, his Majesty will then, without doubt, communicate that treaty to his parliament; and, on the other hand, if our present negociations should prove abortive, if his Majesty should at last find, that nothing will prevail but the *ultima ratio regum*, he will certainly make such alliances, and take such measures, as he in his great wisdom may think proper or necessary, for rendering the issue of that war advantageous and glorious to this nation; and when he has not only fully resolved upon war, but is fully prepared for coming to an open rupture, he will then communicate to his parliament the several steps he has taken, and all the papers that may be necessary for giving them a sufficient light into the affair. This, I say, Sir, we may be assured of, from his Majesty's known wisdom, and the condescension he has always shewn towards his parliaments; therefore, we ought to be extremely cautious in calling for any papers, that may tend towards rendering public any present negociation his Majesty may be engaged in; and as this would probably be the consequence of laying any of the late memorials or answers from Spain before us, we ought to suspend our curiosity, till his Majesty may think it proper to communicate them.

I hope, Sir, I have now clearly shewn, that none of the memorials or answers from Spain can be said to be necessary for any enquiry we have as yet resolved on; and that the communicating of any of them to this House, or even our calling for them, would be of dangerous consequence. Then as to the unanimity of our proceedings, I cannot but think it is as strong an argument for prevailing with the honourable gentleman who made the motion, to agree to the amendment proposed, as it can be for prevailing with my honourable friend to withdraw the amendment he has offered; therefore, whatever regard he may have for the honourable gentleman who was so good as to offer him advice, I hope he will, upon the present occasion, take the liberty to refuse it; and, I hope that for the sake of unanimity, the hon. gentleman who made the motion, will be the first to agree to the Amendment that has been offered.

Sir *William Windham* spoke next:

Sir; When the hon. gentleman who proposed the Amendment, first gave his reasons against some part of the motion that has been made to us, I was pretty much inclined to agree with him in opinion; but since I have more fully considered the circumstances of the case before us, and have heard what has been said on the other side of the question, I must be for agreeing to the motion without any amendment, therefore I hope the hon. gentleman will take the advice that has been offered him, and give up his amendment, notwithstanding what has been said to the contrary by his worthy friend near him: for, I think, no man can more effectually shew his disinterested regard for the good of his country, than by contributing as much as he can towards shewing to the world, that we are not only serious but unanimous upon the present occasion.

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If peace, Sir, be a desirable thing there is, in my opinion, nothing that will contribute more towards our being able to procure a proper redress, in a peaceable manner, than our agreeing unanimously to the motion now made to us. I make no question but that an express will this very night be sent to the court of Spain, and I hope that express will carry the news not only of our having agreed to this motion, but of our having unanimously agreed to it. This, I say, I hope, nay I most heartily wish it may be so; because I am convinced, that nothing can contribute more towards preventing our being obliged to come to extremities; for I am sure no man will say but that we ought to come to extremities, rather than continue any longer to sit tamely under the insults and indignities that have been put upon the nation, in the persons of some of our most useful subjects; and the best way of obtaining reparation and security by fair means, to shew that we are resolved to have it by foul, if it cannot be otherwise obtained. If by our behaviour upon the present occasion, it should be made apparent to the world, and particularly to the court of Spain, that this is our resolution, it may probably render that court a little more pliable than our negotiators have ever yet found them; for in public as well as private life, the surest way of living in peace and quiet, is to gain and preserve the character of being ready, upon any just provocation to try the fate of a combat.

I cannot comprehend, Sir, why it has been so much insisted on in this debate, that it is the interest of this nation to keep up a good correspondence with Spain: I am sure it is as much the interest of Spain to keep up a good correspondence with us, as it is our interest to live in friendship with them; and former experience has often shewn, that they have more reason to be afraid of a rupture with us, than we have to be afraid of a rupture with them. They have, it is true, of late years, set up some pretences which are inconsistent with justice and the rights of this nation: they have plundered our merchants, and maltreated our seamen; and they have refused, or unreasonably delayed, to give us any proper satisfaction. What can this be owing to? it is not owing to their being ignorant of their own interest, or of the danger they may expose themselves to by coming to an open rupture with us. It must be owing to some unaccountable notion they have begun to entertain, that we are afraid of coming to an open rupture with them; and while they entertain such a notion, they will never do us justice in a peaceable manner. How they came at first to conceive such a notion I do not know; but I must say, that by our late patience and forbearance, not only they, but all the world, I believe, begin to think that we will submit to any thing rather than engage in a war; and while this opinion prevails, we may live in peace, but I am sure we cannot live at ease or in quiet. It is therefore high time to resume the ancient, and what, I hope, will always be found to be the true character of this nation. It is high time, it is even become necessary for us to do something for convincing the world that we are now, and always will be, ready to vindicate our honour by force of arms, when we cannot obtain a full satisfaction by peaceable means; and upon the present occasion we can do this, only by agreeing unanimously upon the most vigorous resolutions, upon such resolutions as ought to be the immediate consequence of the treatment our merchants and sailors have met with. This is what has already been too long delayed; and it is what cannot now be regularly done without our having first seen, or at least called for, those very papers which, by the amendment, are proposed to be left out of the motion.

From what I have said, Sir, it will appear, that the chief, I may say the only argument made use of against our calling for the answers or memorials from Spain, is really one of the strongest arguments for it. The chief argument made use of against our calling for these papers is founded on a supposition, that the laying of such papers before us may interrupt the course of our peaceful negociations, and involve the nation in a war. Now will not our refusing, or even delaying, for such a reason, to call for papers, which are certainly extremely proper to be looked into, upon the present occasion, be a testimony of our being terribly afraid of involving the nation in a war? will it not confirm the notion, which I am afraid the Spaniards now entertain of us? will it not make them conclude that we are more afraid of coming to an open rupture with them, than we are fond of doing justice to our injured merchants? and as an account of this day's debate will certainly be sent to the court of Spain, will not they presume from thence, that they may still put off agreeing to any reasonable terms, or

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offering any proper satisfaction? this will, of course, make it necessary for us to come to extremities; so that like those private men, who have the misfortune to have a sheepish look, or too much modesty in their behaviour, we may probably draw ourselves into a quarrel, which a little decent boldness might have prevented. From whence it is plain, that our agreeing to the Amendment the hon. gentleman has been pleased to offer, will most probably lead the nation into what he seems to be most afraid of; unless he thinks, which I am sure is far from being the case, that we ought to bear patiently with all past injuries, and submit tamely to all future, rather than run the risk of a war.

I shall grant, Sir, that no negociation, nor any material paper relating to it, ought to be made public, till that negociation be brought to a period; but where neither party has a mind to amuse and deceive the other, every negociation must soon be brought to a period. The protracting of any negociation, for a number of years, is a certain sign, that one of the parties at least has a mind to amuse and deceive, as might be proved by a vast number of examples; but one I cannot forbear mentioning upon this occasion, because it is an example drawn from an affair that happened between us and the very kingdom with which we are now said to be, and with which we have long been carrying on, what I am afraid will at last appear to be a fruitless negociation. The example I mean is that negociation which we carried on with Spain, in the reign of James 1, about the marriage of his son the prince of Wales. That negociation continued for near eight years; and as we have now sent commissaries, so we then sent the prince of Wales and the prime minister to Spain, without any effect: but at last it appeared that the negociation was carried on with a design to amuse us, and to keep us quiet, till the house of Austria found means to ruin almost entirely the Protestant interest in Germany; and I do not know but their design may now be, to amuse us, and keep us quiet, till our trade be entirely ruined; which will be the case, if we go on with negociating, and they with plundering and seizing our merchant ships, but for a few years longer.

For this reason, Sir, as the present negociation has already continued for so many years, its not being brought to a period, is so far from being a reason for our not calling for any papers relating to it, that it is a good reason for our enquiring into the negociation itself. From the long continuance of our present negociations with Spain, there is great reason to suspect they have hitherto been amusing us only; and from the circumstances of our present disputes with that nation, this suspicion must be considerably increased: for as we may be said to be plaintiffs only, and they defendants, which I am sorry for, it is their interest to amuse and protract, because upon the issue they will not only have a large sum to pay us, but must give up some valuable rights they have lately begun to lay claim to; whereas we have been of late so just and so complaisant to them, that we have already left them nothing to ask.

Now, Sir, if this be the case, if there is but ground to suspect that any of our inferior councils have allowed themselves to be amused and deceived, it is high time for the supreme and chief council of the nation to take the negociation itself into their consideration; and for that purpose to call for all papers relating to it; in order that we may give his Majesty such advice as may be thought proper upon such an occasion. Such a resolution can no way tend to make the court of Spain break off conferences with us: if they have a mind to do us justice, rather than come to an open rupture, it would make them begin to treat with us upon a fair, a candid, and a serious footing, which, in my opinion, they have never yet done: but if they are really resolved to come to an open rupture, rather than do us justice, the effect of such a resolution would then indeed be, not to make them break off conferences with us, but to make us break off conferences with them; for as they are defendants only, it is their business to negociate, as long as we will negociate with them; and as we are plaintiffs only, it is our business to insist upon a speedy and a categorical answer; and in case of refusal or delay, to break off all conferences, and betake ourselves to those means, which may probably prove more effectual. Can either of these be called an effect which we ought to be afraid of? no, Sir, even the last, is an effect which we ought to be fond off; for if a sufficient redress is not to be obtained without a rupture, the sooner we come to it the better: a state of war is more eligible than the uncertain, mongrel state we are in at present.

But we are now told, Sir, that the present negociations between Spain and us

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have not continued for above three years; and to prove this, the hon. gentleman who spoke last, has been pleased to give us a long account of the many treaties lately concluded between the two crowns. No man, it is more true, is more able than he to give an account of our late treaties and negociations; and I shall own my obligation for the exact account he has given of some of them; but it is certain, and even that hon. gentleman will, I believe, allow, that the Spaniards have been continuing their encroachments and depredations almost without interruption for above twenty years; and he will, I believe, likewise allow, that as yet we have obtained no reparation for past injuries, nor any security against future. What is it then appears from the long account he has given us of the late treaties between Spain and us? does it not from thence appear, that we have been for above twenty years not only negociating, but actually concluding treaties, in vain, and without the least effect? what hopes other gentlemen may put in our present negociating I do not know; but for my part I must declare, that I put no great hopes in any negociation we can carry on, or any treaty or convention we can make; and I must think I am justified in this way of thinking, by the account the hon. gentleman has been pleased to give us of the late treaties concluded between Spain and us. By these treaties they have two or three times already expressly promised full reparation and security: they have as yet performed none of these promises. What reason have we to think, they will be more faithful in the performance of any promise they may make by the next treaty, or by any future treaty? I am sure, if they do shew themselves more faithful in time to come, it will not proceed from our shewing such a backwardness in coming to an open rupture with them, as some gentlemen seem to shew upon the present occasion. No nation in the world will perform a promise, though made by the most solemn treaty, if it be against their interest to do so: They will always find pretences for delaying or evading it, if they think they can do so with safety; and they will always think so, if they have any reason to believe, that the nation, in whose favour it was made, is so impotent or so cowardly, that they dare not attempt in a hostile manner to revenge an infraction of a solemn treaty.

This, I am afraid, Sir, is the case between Spain and us. We have been of late so passive, that, I fear, they have begun to think we will not, or dare not come to an open rupture with them; and if this be their way of thinking, there is nothing will alter their opinion, but a vigorous and well conducted war: so that by our long-suffering and extreme readiness to oblige them, instead of avoiding a war, we have already made it become necessary. They may grant us the favour of a new treaty: they may by that treaty again promise full reparation and security; but if they continue in the same way of thinking, those promises will be as ill kept as any of the former. In my opinion, it is therefore absolutely improper for us, upon the present occasion, to shew the least concern about what may be the consequences of any resolution proposed. An unanimous and hearty concurrence in the most vigorous resolutions, may make them alter their opinion of us, or may make them think, that we are resolved to alter our conduct with respect to them; and this I take to be the only way of avoiding a war, which will otherwise, either now or very soon hereafter, become absolutely unavoidable; unless we are resolved always to submit tamely to the same sort of injuries we have already suffered, and to forfeit our character and our trade in every part of the world.

I shall readily admit, Sir, that it would be ridiculous in us to talk big, or to come to vigorous resolutions, upon this or any other occasion, unless those resolutions were to be followed by suitable actions. Nay, I believe, it would be ridiculous in us to fit out formidable squadrons, or to take great armies into our pay, unless those fleets and those armies were to be furnished with proper orders or instructions for enabling them to follow words with blows, in case of any denial or unreasonable delay of justice. I know that threatening memorials are but words; and, I believe, the hon. gentleman talks from experience, when he says, that such words will always be contemned, if people imagine they are not to be immediately followed with suitable actions: But whatever disrespect may have been shewn to the threatening words or memorials of other councils, I hope no sign of disregard will ever be shewn to the threatening resolutions of a British parliament. I hope no nation will ever imagine, that such words are not to be followed with suitable actions. The kingdom of Spain, as well as one of her next neighbours, has still reason to

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remember the resolutions of our parliament in the year 1701-2. From the behaviour of the nation at that time, and for some years after, they must conclude, that the threatening resolutions of a British parliament will be followed, and speedily followed, by suitable actions. They have from thence good reason to conclude, that, even at this time, our words will not only be followed with blows, but that every blow will be followed by another, till we bring our enemies to reasonable terms; and as the justice of our cause is now as great as it was then, I am sure our enemies have no cause to expect greater favour from Providence, than they met with at that time: Therefore, if they have any hopes of success, it must be in our misconduct, or in the supposed weakness of our councils; and if they should bring things to extremity, I hope they will find themselves disappointed in both.

With respect to the general resentment, that now prevails over the whole nation, against the depredations committed by the Spaniards, however disagreeable it may be to some gentlemen, I must declare, that it is extremely agreeable to me; and it is so, because, I think it is just. I do not really know what the honourable gentleman means by saying, that it has been stirred up by those who had no title to stir it up, or who did not know what they were about. I believe it has been stirred up by none but the Spaniards themselves; for I have so good an opinion of the understanding of my countrymen in general, as to believe, that their judgment, and consequently their resentment, as well as their gratitude, depends upon the nature of things, and not upon what may be said or wrote upon any subject. For this reason, if none of the actions of the Spanish guarda costas had been unjust, if their behaviour towards our merchants had not been cruel and barbarous as well as unjust, I believe it would have been impossible to have stirred up such a general resentment as now prevails against them, though all the best pens in the nation had been as much employed to throw their actions into a malicious and invidious light, as some of the worst have been to palliate and excuse or rather justify their behaviour towards us. I must therefore think, that it signifies very little who they are that endeavour to stir up the resentment of the people; because, if there is a just cause for it, their resentment will rise of course; and if there is no cause for it, no art or persuasion will be able to raise it. The resentment of the nation is, it is true, come to a very great height upon the present occasion, and if it should evaporate before it produces the desired effect, it is easy to foresee who will deserve to be blamed: but though there are no people of a more generous and forgiving temper than the people of this nation, yet, I hope they will never allow their resentment to evaporate: I hope they will neither forget nor forgive, till they see justice done to such of their countrymen as have been injured, and a full satisfaction made to the nation for the insults that have been put upon it.

I have now, I hope, shewn, Sir, that if we have a mind to take the best method for preventing a war, or obtaining redress in a peaceable manner, we ought to agree unanimously to the motion without any amendment. What the answer from the Crown may be, I shall not pretend to determine, because I know nothing of the nature of any of the papers called for; but surely our addressing to have them laid before us can be of no prejudice. Suppose his Majesty should think it inconsistent with the public safety to lay some of those Papers before us, his being obliged to tell us so can give him no disquiet; because it is a proper answer, and an answer which this House has generally been satisfied with: it is an answer which cannot make any man, that has a weight in any foreign council, nor any man of common understanding at home, suppose that there is the least disagreement between his Majesty and his Parliament; because we cannot suppose the ministers of any foreign court we have to do with, nor any man of common sense at home, so ignorant of our constitution, as not to know that the Parliament always leaves it to the Crown to determine what Papers are fit to be laid before them; and never insist upon a sight of any paper, after the Crown has told them that it is not safe to make it public, unless when they have reason to suspect, that such an answer proceeds from evil counsel, and from the selfish ends of a minister, in order to conceal some criminal or false step he has been guilty of. Then, indeed, the Parliament would probably insist upon having such a Paper laid before them, and might perhaps address the King to know who advised him to send such an answer; and then it might be supposed, both abroad and at home, that there was no great harmony between the

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King and his Parliament, or at least between his ministers and his Parliament; but surely, neither the hon. gentleman who spoke last, nor any other, has the least ground to suspect that this may be the case at present; and if it were, it would be the strongest argument for agreeing to the motion, to the end that the Parliament might have an opportunity of removing such ministers from his Majesty's councils; for if such men were at the helm of our affairs, which I am sure is not the case at present, we could neither expect regard or confidence from foreign states, nor any honesty or good conduct in our own affairs, with respect either to peace or war.

Thus, I think, it appears, Sir, that our calling for the memorials or answers from Spain can be attended with no bad consequence, even supposing them to be such as cannot be safely communicated; and I have shewn, that our not calling for them may be attended with the most fatal consequence, by confirming the court of Spain in the notion they seem to entertain of us, that we are afraid, and will rather submit to any thing, than come to an open rupture with them. But we are told, we ought not to call for them, because we have now no occasion for them; and to shew we have no occasion for them, it is said, that in pursuance of the resolution we have come to, we cannot regularly, at first, enter into any enquiry, but that of the truth of the facts set forth in the Petitions now presented to us. This I am surprized to hear from a gentleman so well acquainted with the facts set forth in the Petitions, and so much a master of the customs and methods of proceeding in Parliament. Sir, we have no occasion for such an enquiry but for form's sake merely. We all know the facts are true; and if we proceed no further, I shall be sorry we have gone so far; for we shall then only leave upon record, in the journals of Parliament, a testimony of the insults and injuries we have tamely suffered, which is a testimony that can no way contribute to the honour of the nation; and therefore we ought to be so far from recording, that, if it were possible, we ought to prevent its being handed down to posterity. If we look but into the prayer of the Petitions presented to us, we must see we have something else to do, than merely to enquire into the truth of facts. The Petitioners beseech us, "To provide such a timely and adequate remedy, as may put an end to all insults and depredations on the British subjects; and to procure such relief for the unhappy sufferers, as the nature of their case, and the justice of their cause, require." Are we not then, in pursuance of our resolution, to endeavour to provide such a remedy, and procure such relief? And is it possible for us to determine what may be a proper remedy, what may be a proper relief, without seeing what the court of Spain have offered, and what they pretend in justification of themselves?

There are but two ways, Sir, of providing a remedy, or procuring any relief: it must be done either by force of arms, or by negociation; and which of these methods may be most proper, is what we are to determine; it is what we have in some measure already resolved to determine, by resolving to take the Petitions into our consideration: for this purpose we must necessarily examine into the whole of our past negociations, whether they appear in the form of negociation or of treaty, as yet neither fulfilled, nor any way observed. Which of those methods may, upon the enquiry we have resolved on, appear to be most proper, I shall not now take upon me to determine; but in this affair we have already made use of so much ink and paper without any effect, that I am afraid it will appear necessary for us to begin to make use of another sort of ammunition. We have already found there is no trust to be put even in treaties, and therefore, after we have thoroughly examined into this affair, it may be the opinion of this House, that we must now have recourse to that, in which we have always found, in which I hope we always shall find, our chief and greatest security, I mean, Sir, the weight of our metal, and the sharpness of our swords.

Now, suppose, Sir, we should come to such a resolution; suppose we should upon inquiry find that no effectual remedy can be provided, nor any sufficient relief procured, but by force of arms; that resolution to be sure, is to be offered to his Majesty by way of advice. In so doing we encroach upon none of the prerogatives of the crown: we do that only which is our duty; for we are obliged to offer what we think the most wholesome advice to our sovereign. Neither do we communicate to the public the secrets of any negociation, while it continues, or ought to continue, in the shape of a negociation; we only give our opinion that it ought not to be conti-

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nued in that shape any longer; and surely, if the parliament think so, they have a right to say so, and to communicate their thoughts, by way of address, to his Majesty. The power of making peace or war may be solely lodged in the crown; but the parliament certainly have a right to advise and address against the continuance of peace, when they think it cannot be continued with honour, as well as they have a right to advise and address against a war, which they think cannot be prosecuted with advantage. This is, in my opinion, the principal enquiry we are to make, when we take these petitions into our consideration: we are to enquire, whether there be any probability of obtaining what the petitioners pray for, in a peaceable manner; and upon such an enquiry, I am sure, we can come to no determination, without seeing those papers that are proposed by the amendment to be left out of the motion: therefore I hope, the hon. gentleman will withdraw his Amendment, and leave it to his Majesty, who is the only proper judge, to determine, whether the papers now moved for, are such as may be safely communicated to the House.

Mr. *Henry Pelham* rose and said:

Sir; I must say, I am sorry the hon. gentleman who spoke last, did not continue in his first opinion; for I am always fond of having an opportunity to join with him in the same sentiments; but upon the present occasion I cannot; because, I think, the hon. gentleman who proposed the Amendment, gave such reasons for what he proposed, as neither have, nor, in my opinion, can be answered. I shall admit, Sir, that it is as necessary for a nation to preserve its character among neighbours, as it is for a private man; but whatever opinion the court of Spain may entertain of our courage, or of our unwillingness to come to an open rupture with them, I shall never be for doing any thing that may tend towards involving this nation into an unnecessary war, for the sake only of making that nation believe we are no way afraid of them. The character of this nation for resolution and courage is already so well established, that we have no occasion for making use of any sort of hectoring expressions, in order to convince the world, that we are not afraid of the Spaniards, whom the gentlemen who are for a war represent as a very feeble enemy. Therefore, if upon any false and ill-grounded opinion of our timidity, they should absolutely refuse to do us justice, we may easily persuade them, that our patience proceeded not from our fear, but from our prudence; but this is not to be done by any resolutions of this House; it is to be done only by fleets and armies, after his Majesty has told us that nothing else will prevail. For this reason, as long as there is the least ground to hope, that the court of Spain may be prevailed on by peaceable means to give ear to reason, we ought not to do any thing that may tend to interrupt or retard any negociation, that may be carrying on for that purpose: and that we are not as yet intirely destitute of such hopes, must be presumed; because, we may be assured, that as soon as this comes to be our case, his Majesty will apply in the most solemn manner to his parliament, both for advice and assistance.

As for the last answer or memorial from Spain, I do not pretend, Sir, to know what it is; but I have been been assured from authority which I have no reason to suspect, that it can no way be looked on as a final answer. It is so far from being a flat denial of justice, that it seems to shew an inclination towards doing justice, as soon as some disputed facts can be cleared up: and I am told it may admit of such explanations, as may put an end to all our differences in a peaceable manner; nay, I have good reason, I think, to suppose it such a one; for if it had been otherwise, I am convinced his Majesty would have directly ordered it to have been laid before the House. Suppose it then such an answer as, by proper explanations, may lay a foundation for our obtaining full satisfaction and security, in a peaceable manner; I should be glad to know how those explanations are to be obtained. The only way of obtaining any such, must be by a new memorial from this court to that of Spain, by way of reply to their last answer; but if we order their last answer to be laid before this House, we shall, in a great measure, put it out of his Majesty's power to send any such reply; for in that case, I believe, none of his Majesty's servants would venture to advise him to send a reply, or to give their opinion what sort of reply ought to be sent, until the parliament had thoroughly examined into the affair, and had come to such resolutions as they should think proper upon the occasion. This the parliament may not be able to do till towards the end of the session, during which time the negociation between the two courts must be at an entire stand; where-

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as, if it be left to his Majesty, to send such a reply as he may think most proper, the negociation may before that time be brought to some period or another; and in our present circumstances, I am sure, nothing can be of advantage to this nation, that will necessarily, but needlessly, occasion a delay in adjusting our differences with the court of Madrid.

From hence, Sir, I think it is evident, that our calling for the last memorial from Spain would be imprudent; and whatever necessity there may be for our seeing the last or any of the memorials from that court, before we can come to any final determination, relating to the petitions we have resolved to take into our consideration, yet that necessity neither does, nor can now appear; and therefore, I do not think there is, as yet, the least occasion for our calling for any of these memorials. In the course of the enquiry we are resolved to make, it may appear necessary for us to have all those memorials laid before us, and when that does appear, I shall be ready to join with other gentlemen in any proper motion for that purpose; but till then, I think it ought to be delayed, because our immediately calling for them, especially the last, may be attended with some inconvenience, and because such a delay can but very little, if any way, retard our proceedings with respect to the affair now before us. By the resolution you have come to, it will be near a fortnight before you begin to take this affair into your consideration; and as some things may intervene, that may oblige you to put off the entering upon it for some days longer; and likewise, as you may meet with interruptions in the course of your enquiry; I must reckon it will be near three weeks, it may be more, before you can know positively, whether there will be any necessity for your having any of those memorials laid before you; therefore you may, I think, without the least inconvenience, delay calling for any of them for two or three weeks at least. In the mean time, his Majesty may have sent to the court of Spain a reply to their last answer, and then your calling for that answer can no way interrupt the course of the negociation, nor can it be attended with such dangerous consequences, as your calling for it now may be attended with; nay, I do not know but that, if a reply be immediately sent, demanding the necessary explanations, and insisting upon a categorical answer, which I am convinced his Majesty will do with all possible dispatch; I do not know, I say, but that in this case, a new memorial may arrive from the court of Spain, before it be necessary for you to come to any resolutions relating to this affair; and that new memorial will certainly have a great influence upon your resolutions, as well as upon his Majesty's future conduct with regard to Spain.

I shall grant, Sir, that in case of our calling for any papers, it is a proper enough answer from the crown, to tell us, they are of such a nature, that they cannot be safely communicated; but on the other hand, I believe it will be allowed, that such an answer from the crown is unusual; and the reason of its being so, is, because both Houses of Parliament have generally taken care to call for no papers but such as might, in all appearance, be safely communicated. Now, though I do not pretend to know what is in the last memorial or answer from Spain, yet from its having arrived so lately, we may, I think, with probability, if not with certainty, conclude, that it is a paper which ought not yet to be made public; and therefore, however proper such an answer from the crown may be, I must think such an application from this House would not be altogether so proper at present. For this reason, I think, it would be more agreeable to the custom of parliament, and more proper for us not to call for any of the memorials from Spain, but to leave it entirely to his Majesty, to order such of them to be laid before us, as he shall think may be safely communicated; and this he will certainly do in due time, if there be any thing in any of these memorials, that may require the consideration of parliament.

After what I have said, Sir, I hope gentlemen will excuse me if I say, that I think it would be rash and precipitate in us, to call for all or any of these memorials at present; and though we had them all before us, I must think, it would be still more rash in us to come to any violent or threatening resolutions, unless his Majesty had before told us, that he had no farther hopes of obtaining full satisfaction in a peaceable manner; for even in private life, let a man be never so much inclined to do justice, or to make reparation, he would not like to be publicly threatened into it; the attempting to make use of such a method, would probably make him stand upon a punctilio of honour, and refuse, at least for that time, to do, what he would have done with great alacrity, if it

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had been required of him in a discreet and prudent manner.

It is true, Sir, the negociations between Spain and us have already continued too long, and it must be granted, they have not as yet had any great effect; but if we consider the multitude of complaints that are upon both sides, (for the court of Spain have their complaints, and have demands to make, as well as we) and the great distance of the places where our mutual complaints are to be examined, we cannot think it strange, that our negociations have not, as yet, been brought to a final issue. I do not mention this, Sir, with a design to make any excuse for the behaviour of the Spaniards to us, or to justify all the delays they have been guilty of. I mention it only to shew, that, notwithstanding the length of the negociations between us, we ought not to conclude, that the court of Spain designs only to amuse and deceive us; but, on the contrary, that we ought to presume there may still be some hopes of our being able to obtain, in a peaceable manner, as much as we can expect by the most successful war: and if this can be done, it will certainly be a great saving both of men and money to the nation. That his Majesty thinks he has still good reason to entertain some such hopes, we may be assured of; otherwise he would have provided, before this time, for obtaining by force, what he found he could not obtain by peaceable means, and would have applied to parliament in the most solemn manner for that purpose. Therefore, rather than do any thing that may put an end to all such hopes, I think we ought to return thanks to his Majesty, and extol the wisdom and goodness he has hitherto shewn, by putting a force upon his natural inclinations, and sacrificing that dazzling glory which is obtained by victories and triumphs, to that solid and true glory, which is the just reward of those kings, who make the preservation of the lives and properties of their subjects, their chief and greatest concern.

After Mr. Pelham, several gentlemen spoke for and against the Amendment proposed; but we shall only give what was said by sir John Barnard, and sir Charles Wager.

Sir *John Barnard* spoke to this effect:

Sir; In all debates of this nature, gentlemen ought to be very cautious how they run any parallels betwixt public and private transactions. We have heard a good deal with regard to the prudential consideration of our agreeing to the present motion: but give me leave to observe, Sir, that the character of a nation is very different from that of a private man. A private man that has once established a reputation for wisdom and courage, may easily, and generally does, preserve that reputation as long as he lives; but whatever reputation a state or kingdom may acquire at any one time, is so far from continuing as long as that state or kingdom subsists, that on the contrary, the reputation acquired under one King, or one administration, always expires as soon as that king or administration expires; and the successors must always begin afresh to acquire and establish a character for the nation under their administration. A nation may acquire the highest character, the greatest esteem, under one reign or administration, and yet sink into the lowest contempt under the very next. This was the case of this nation, in the reigns of Edward 1 and Edward 2; in the reigns of Edward 3 and Richard 2; in the reigns of Henry 5 and Henry 6; and in the reigns of our wise queen Elizabeth and her successor James 1.

It is in vain therefore, Sir, to pretend, that the character of this nation is established, or that we can now depend upon the character we acquired in any former reign, or under any former administration: for our present character, we cannot look beyond the date of the present administration. Now, as his Majesty's name ought never to be mentioned in any of our debates; as nothing that is said by any gentleman in this House, can be supposed to relate to the King, but to the ministers for the time being only; I may therefore beg leave to desire gentlemen to lay their hands upon their hearts, and declare, what sort of character they think this nation has acquired under our present administration, which, I must observe, began before his Majesty's accession, and began with a treaty of peace between Spain and us, which I never did, nor ever shall intirely approve of. If upon this footing, gentlemen will examine into the character we may at present be supposed to have among our neighbours, I am afraid it will be found not to be a very advantageous one, at least with respect to our courage, or readiness to try the fate of war, in case of any injury or insult being put upon us.

I shall grant, Sir, that generally speak-

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ing, peace is better than war; but it is not always so: a dishonourable peace is worse than a destructive war; it is better for a nation, as well as a private man, to cease to be, than to subsist in the wretched state of suffering continual insults and indignities; and if under the present administration, we have lost a great part of the character we gained in former times: if our neighbours have begun to think, that we will bear with any infractions of treaties, rather than engage in a war, which I hope is not the case; we may cajole and flatter ourselves with obtaining redress by peaceful negociations or treaties; but while our neighbours entertain such a notion of us, I am fully convinced it will be impossible. If our enemies are not yet fully prepared to ruin us, if they think they may soon have a better opportunity than the present for giving us some finishing blow, they may for some time amuse us with negociations or congresses, they may even vouchsafe to grant us a convention or a treaty; but these will appear at last to be nothing but expedients, artfully contrived by them, and foolishly or treacherously submitted to by us, for making our ruin the more complete and the more inevitable. During these very negociations, and notwithstanding the treaties they may vouchsafe to grant us, being convinced they may do it with impunity, they will continue to put the same indignities on us, till we are reduced so low by our sufferings, that, like a man who has too long neglected a wasting distemper, we shall not have sufficient strength left for making use of that remedy, which, if it had been applied in time, would have produced a certain cure.

I shall not pretend, Sir, to be a competent judge of our conduct for several years past; I shall not pretend to say positively what we have done, or what we might have done; but, in my opinion, we have had several opportunities for inducing, if not compelling the Spaniards, and likewise some other of our neighbours, to give us full satisfaction for injuries past, which would have been the best security against any such for the future; nay, I am of opinion, we might have prevented most of the indignities put upon us, without involving the nation in a war. If my information be right, our neighbours the Dutch have fallen upon a way of preventing such indignities, without involving themselves in a war. I shall not affirm it for a truth, but we have been told, that they have lately taken a method with the Spanish Guarda Costas, which will make them a little more cautious, at least with respect to them, in time to come: they have fitted out ships proper for the purpose, and when they have found Guarda Costas not properly commissioned, or such as had seized or plundered any of their ships, contrary to the law of nations, and to the instructions they had from those who gave them their commissions, they have treated them as pirates, and have hung them up at the yard's arm as soon as taken. This is what has been commonly reported; and it calls to my mind a story I have heard of a gentleman, who received a box on the ear from a famous bully at a coffee-house. The gentleman, it seems, had not so much courage as a gentleman ought to have, and therefore took it patiently: he thought only of obtaining satisfaction in a peaceable manner; but soon after he heard, that the same bully, for such another piece of behaviour, had been caned and kicked out of the coffee-room, by another gentleman. Gods so! says the poltroon, if I had known that follow would have been treated in such a manner, I should not have taken the blow he gave me so patiently.

All nations, Sir, are apt to play the bully with respect to one another; and if the government or administration of a nation has taken but one insult tamely, their neighbours will from thence judge of the then character of that nation, without any regard to their behaviour under a former government or administration; and will accordingly treat them as bullies do noted poltroons; they will kick and cuff them upon every occasion: and as a private man, who has once got the character of a poltroon, can never wipe off that character, or avoid such treatment, but by drubbing those who have dared to insult him, I am afraid it is now become in vain for us to expect to recover our character, so as to obtain satisfaction for injuries past, or to avoid meeting with future injuries, by any peaceable means: at least, I am sure, it is not fit for us at present to shew ourselves so anxious about avoiding a war, as our agreeing to the amendment now proposed will clearly shew us to be.

Having thus, Sir, shewn, that we have no former character to depend on, and that nothing will more probably make a war necessary than our appearing any way anxious to avoid it, I shall next examine some of the arguments made use of, against our calling for any of the Memo-

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rials or Answers from Spain. As to the last answer from that court, which we are told arrived but a few days ago, though certainly it might and ought to have arrived several weeks ago, it has been said, that we ought not to call for it, because by so doing, we shall prevent his Majesty's being able to send any reply, till after we have examined into the affair before us, and have come to such resolutions as may be thought proper upon the occasion. Sir, for this very reason we ought, in my opinion, to call for it. I think no reply ought to be sent but by the advice of parliament. The affair is now brought, and regularly brought before parliament; and I hope no minister will advise his Majesty to send a reply, till he knows the resolutions of parliament. If any minister does, I am sure it will not be prudent: it will be a piece of the highest disrespect he can shew to a British parliament; and whatever pusillanimity he may have been guilty of with respect to foreign affairs, I am sure there will in that case be no reason to accuse him of pusillanimity with respect to domestic. Our obtaining redress, or our obtaining a speedy redress, does not depend upon our speedily sending a reply of some weight. Our ministers have already sent many memorials, many replies, without any effect: our business is now to send a reply that will have some more weight than any hitherto sent; and surely a reply from his Majesty, founded upon the resolutions of his parliament, will have more force than any reply he can send by the advice of his ministers only. Therefore, considering how little regard has hitherto been shewn by the court of Spain, to the memorials of our ministers, I must think it high time, even for them, to take the aid of parliament, and to wait for the resolutions of parliament, before they advise his Majesty to send any reply to the last answer from Spain; and for this reason I should think, that our ministers, of all others, would be the most fond of having that answer laid before parliament.

I am surprised, Sir, to hear it said, that the necessity of our seeing all the memorials or answers from Spain, relating to the affair before us, does not now appear. It appears, Sir, upon the very face of every one of the Petitions we have resolved to take into our consideration. Does not every one of them expressly affirm, "That the Spaniards have unjustly seized and made prize of our merchant ships, in the destined course of their voyages to and from the British colonies?" Do not we know that an unlawful trade may be carried on by our merchant ships, in the Spanish West-Indies; and if any of them are detected in the carrying on of such a trade, they may not only be justly seized, but justly condemned and made prize of? And do not we know that the Spaniards pretend, all or most of the ships they have seized, were not in the destined course of their voyage to and from the British colonies, but were detected and proved to have been carrying on an unlawful trade upon their coasts? Shall we then proceed to determine, that any of our merchant ships have been unjustly seized and made prize of by the Spaniards, without examining what the Spaniards have to say in their own justification? Do not, for God's sake, Sir, let it be in the power of our enemies to tax us with injustice; let that be all on the other side; but give me leave to say, that such a conduct would be unjust, and therefore highly unbecoming a British House of Parliament; and as we can no way examine into what the Spaniards have to say in their own justification, but by perusing the memorials they have transmitted to this court, therefore, upon the very face of the Petitions we have resolved to take into our consideration, it appears necessary for us to see every one of these memorials, before we can come to any resolution relating to the Petitions now before us.

As I have shewn, Sir, that it is absolutely necessary for us to see all the memorials or answers from Spain before we can proceed to any determination or resolution relating to the affair we have resolved to enquire into, I think it very needless to dispute, whether or no there be any appearance of its being safe to communicate all or any of them to this House. If his Majesty should think it unsafe to communicate any of them, we must put off our enquiry, till his Majesty finds that he may safely enable us to proceed in it, by laying all the proper materials before us: but surely, Sir, we ought to proceed upon the steps that are previous to that enquiry, until we shall receive the disagreeable information from the crown itself, that it is not yet safe to lay all the proper materials before us. For my part, I think we have no such measures to keep with regard to Spain, as some gentlemen seem to think necessary. I put no confidence in any negociation we can carry on, no nor in any treaty we can

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conclude. I think our past behaviour has already made a war unavoidable; and I hope his Majesty has taken care that this nation shall be as powerfully supported by proper allies, in defence of our own rights and the rights of mankind, as Spain can expect to be, in the incroachments she has made upon us, and upon the known rights of all nations; I mean, an undisturbed communication between the different parts of their own dominions, and a free navigation in the open seas.

For this reason, Sir, whatever shame or danger might arise to some particular men, I cannot see the least danger that could arise to this nation; nay, I can see many advantages that might accrue to her, if all the memorials, yea all the transactions, that have passed between Spain and us, for these 20 years, were printed and published, as were not only laid before this House, but before the public. I will even go so far as to say, that it would be neither an unbecoming nor a rash step for us, to come to a resolution by way of advice to his Majesty, that war ought to be declared against Spain, if, within a short limited time, they did not promise satisfaction and security in the most express and the most explicit terms.

In private life, if a man has been often and for several years solicited, in the most complaisant manner, to do justice, he ought, nay he must be threatened at last, whatever may be the consequence: if he should then indiscreetly stand upon a punctilio of honour, a court of law would compel him not only to do justice, but to pay the costs of a suit, which he had brought upon himself merely by his own obstinacy; and I hope the fleets and armies of this kingdom will always be as effectual against obstinate foreigners, as the officers of justice can be against obstinate subjects.

I am sorry, Sir, to hear the multitude of our complaints made use of as an argument for prolonging our negociations. Every one knows that the length of our negociations has added greatly to the number of our complaints; and now, it seems, the multitude of our complaints ought to prevail with us to continue our negociations yet a while longer. At this rate our negociations can never come to an end; for while they continue, the number of our complaints will certainly increase daily, because our subjects, as long as they have anything to risk, will be making use of those rights they think they are intitled to, and this will give their enemies a pretence and an opportunity to plunder them. Therefore the multitude of our complaints should rather be a reason for cutting short our negociations at any rate, than for drawing them out to still a farther length. The ministry, Sir, had better strike a bold stroke at once, (and indeed it will be a bold stroke) by giving up those rights that are in dispute, rather than continue them in suspence, as a snare for making our subjects a prey to their enemies.

Then, Sir, as to the distance of the places where our complaints are to be examined, surely it can be no excuse for the Spaniards not having made satisfaction, with respect to those captures at least, which they themselves have above eight years since acknowledged to have been unjust. This, too, may be made a reason for an eternal negociation, as well as for lengthening our negociations yet a while longer; for if the distance of places be an excuse for not having made satisfaction for an injury done ten years ago, and acknowledged as such above eight years ago, it will be an excuse for delaying for ten years to come, to make satisfaction for the injuries done last year, and so on *in infinitum*; and as we are not, it seems, to have full satisfaction for any injury done, till the whole be adjudged and ascertained at the end of the negociation, we must never at this rate expect full satisfaction for any injury past, present, or future.

What complaints, or what demands the Spaniards may have against us, as I know nothing of them, I shall not pretend to say whether they are frivolous or not; I am apt to suspect they are; but, Sir, if they are not, they may then be a pretence, and a just pretence too, for the injuries they have done to us, or at least for their not having made a full reparation; therefore those very complaints or demands ought to come under our consideration at this juncture; and as they can appear no where but in those memorials, which have been transmitted from the Court of Spain to this Court, they furnish us with a new and an additional reason for shewing, that it is absolutely necessary for us to see all the memorials from Spain, before we can properly come to any resolution relating to the affair we have resolved to enquire into.

Thus, Sir, in every light, in which the question can be put, it appears, it now appears, necessary, to have all the memorials or answers from Spain, laid before

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us, if we are seriously inclined to get at the bottom of the affair we have resolved to enquire into: but I must say, that for my own part, I am very easy, whether any one of these memorials be laid before us; because there is one fact suggested in one of the petitions, which to me appears a sufficient cause for an immediate declaration of war, and will therefore, in my opinion, make it unnecessary for us to enquire into any of the other facts, set forth in the petitions now before us. In the Petition presented by the merchants trading to our plantations, it is suggested, "That the crews of some of our merchant ships are now in slavery in Old Spain, where they are most inhumanly treated." This, Sir, is an indignity, a barbarous cruelty, which a simple release of the prisoners cannot excuse. Nothing but vengeance can atone for such a cruel, such an unchristian behaviour. It is a cruelty, which the Court of Spain cannot pretend to palliate or excuse, by imputing it to the misbehaviour of their governors in America. The government of Spain itself must be loaded with it; and as it cannot be justified by any pretence, or by any memorial whatsoever, if it be proved, which I believe it will, I shall think it a sufficient reason for giving it as our opinion, that war ought to be immediately declared against that kingdom, without enquiring into any of the other facts complained of, or seeing any of the memorials or answers they have sent us. It is not enough, Sir, if a man has not only injured me in my property, but basely attacked and maltreated me in my person; I say, it is not enough, if I shall obtain bare satisfaction for what I have suffered in my property. But nations, Sir, have no courts of justice to which they care to appeal; they must take the remedy that their power presents them with, which is satisfaction by arms.

Therefore, as I have said, I am extremely easy, whether any of the Spanish memorials be laid before us or not; but if, out of an ill-timed complaisance for the Court of Spain, and for fear of intruding upon their punctilios of honour, we now refuse to call for any of these memorials; I am afraid this poor nation can at present neither meet with reparation for past injuries, nor can it expect a proper security against being exposed to injuries of the same nature, for some time to come.

Sir *Charles Wager* spoke as follows:

Sir; I must say, that whatever the present character of this nation may be, I think we ought to do nothing rashly, either for preserving or recovering it. A man of real courage and good sense is never jealous of his character; and therefore is not so apt to take things amiss, or so hasty in resenting affronts, as one who has only a brutish temerity, or a false and affected courage. I do not know but that all the facts mentioned in the petitions may be proved; I believe they will; but if they were, I should not take upon me to say, whether or no they could justify an immediate declaration of war against Spain. This is a judgment which no subject ought to make, because the judging and determining in such a case, is, by our constitution, lodged in the crown only. But so far I may say, that whatever may be in these facts, whatever may be our case at present, we ought not to shew our teeth till we can bite.

No nation in the world, I believe, Sir, ever declared war, till they were ready to enter upon action; and as we at present have neither a fleet nor an army ready, sufficient for attacking such a powerful nation as Spain, I think we ought not as yet to do any thing, that may look like a declaration of war, or even like a resolution to declare war. I believe no gentleman will suppose, that I can be induced, either by interest or inclination, to be against a war, when I think it is become necessary: on the contrary, I shall then be as much for it, and as ready to take my share in it, as any man in the kingdom; but if a war were now become absolutely necessary, I should not be for giving any public testimony of our being resolved upon a rupture, till we are fully prepared, and just ready to enter upon action. Every man knows we are not so at present; and as our calling for all the memorials transmitted hither from Spain, would be a sort of public intimation, that we are resolved upon a rupture, I must therefore be for agreeing to the amendment, and leaving it to his Majesty to communicate those memorials to us, when he thinks it safe and convenient; which he may do, and certainly will do, without any address from us for that purpose.

The question being put upon the motion as it stood without the amendment, it was carried in the negative, Yeas 99, Noes 164. And the amendment was then agreed to without a division.

March 15. Mr. Comptroller presented

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to the House, pursuant to their address to his Majesty, copies and extracts of the several Petitions, Representations, Memorials, and all other Papers relating to the Spanish Depredations upon the British subjects, which have been presented to his Majesty, or delivered to either of his Majesty's principal secretaries of State, since Midsummer last, together with copies or extracts of such Memorials or Representations, as have been made either to the king of Spain, or his ministers, and of the letters written to his Majesty's minister at Madrid, relating to the said depredations.*

March 16. A Petition of Bryan Blundel, Henry Trafford, Edward Trafford, John Hughes, and James Bromfield, merchants, on behalf of themselves, and captain William Benson now at sea, owners of the Mary Snow of Liverpool, burden

* "The triumphant majority with which this question was carried, was productive of no essential advantage to the cause which Walpole was so anxious to support. While the attempts were making to adjust the differences with Spain, and while the court of Madrid seemed inclined to make due reparation for the injuries complained of, sir Thomas Fitzgerald, or, as he is usually called, Don Thomas Geraldino, the Spanish minister, was employed in fomenting the disturbances and inflaming the public discontents. He caballed with the leaders in opposition, and acquainted him with the secret information which his instructions or his correspondence enabled him to communicate. He did not hesitate to assert openly that the English ministry imposed upon the people, in pretending that the court of Spain would be inclined to recede, in the smallest degree, from the claim of searching all ships which sailed near their coasts in America. His intemperance gave great advantages to opposition; and in the course of the debates in both Houses, many facts were disclosed by the members of that party, which ought to have been confined to the cabinets. The ministry, having soon discovered by whose means they obtained possession of those facts, complained of his imprudence, and desired Mr. Keene to lay the indecency and consequences of his conduct before the court of Madrid. But Geraldino had frustrated the effects of these representations, by stating, that the views and principles, even of the minister himself, and the most pacific part of the English government, were absolutely inconsistent with every maxim of the Spanish monarchy, and all the security of its trade. This information found a ready belief at Madrid, and their ministers, through Geraldino's advice, became persuaded, that they could not be so effectually served as by fomenting and encouraging the discontents of the people of England against their government.

"At this period the House was daily inundated with Petitions and Papers relating to the inhumanities committed upon the English prisoners taken on board of trading vessels. They represented these prisoners as not only insulted and pillaged, but compelled to work in the Spanish dock yards and fortifications, with irons upon their legs, subsisting upon loathsome provisions, and over-run with vermin, frequently tortured and imprisoned in dungeons. Several captains and other seamen were examined at the bar of the House, and if full credit be given to the witnesses, the facts were unquestionably proved; but their evidence must be received with great caution. They were not examined upon oath, and were not confronted with any testimony on the side of the Spaniards. They were induced by their own interests, and by the hopes of obtaining reparation, to exaggerate their injuries. They saw that it was popular to inveigh against the Spaniards, and were encouraged to render a disastrous tale more disastrous; they were taught to believe, that if they made good their allegations, the minister who had tamely suffered such oppressions would be removed, and that his successors would act with such vigour as to force the king of Spain to indemnify them for their losses and sufferings.

"The captains and seamen who appeared at the bar of the House, gave the most exaggerated accounts of the insults permitted and exercised by the Spaniards; and many related the most incredible tales of horror, which were implicitly believed, almost in proportion to their absurdity.

"Among those who were examined, and whose story seemed to make the deepest impression, was one Jenkins: This man was captain of the Rebecca, a trading vessel; he sailed for Jamaica in the beginning of 1731, and was boarded by a guarda costa, and treated with much insult and indignity. In the account which was given at the time, by the periodical papers and the pamphlets of opposition, the Spanish captain is reported to have put the men to the torture, to have hanged up Jenkins three times, once with the cabin boy at his feet, and then to have cut off one of his ears, and bid him carry it to his king. On his arrival in England, Jenkins is said to have gone to court, and laid his case before the king, and as some compensation for his treatment, or to pacify him, to have been appointed captain of an East Indiaman.

"This ridiculous story, which Burke justly calls, 'The fable of Jenkins' ears,' seems to have made little impression at the time, but it was now revived with additional circumstances of cruelty and insult; and Jenkins was produced at the bar of the House of Commons, to give an account of a transaction which had happened seven years before.

"According to contemporary accounts, after relating the transaction, with many additional

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90 tons, whereof the said William Benson was commander, was presented to the House, and read; setting forth, "That on the 8th of October 1730, (which was about two years after the pacification between the crowns of Great Britain and Spain was actually agreed upon, and likewise notified to their respective governments in the West Indies) the said ship, as she was proceeding on her voyage with provisions and other merchandize on board, from Cork to Jamaica, was taken, twenty leagues distant from any of the Spanish dominions in the West Indies, by a Spanish guarda la costa, contrary, as the petitioners presume, to the laws of nations, and the treaties subsisting between the two crowns; and that the said captain Benson and his ship's crew being stript of the said ship and cargo, to the value of 3,748*l.* 18*s.* 6*d.* Jamaica money, and also of one copper still, and three boxes of medicines, which cost 36*l.* 14*s.* 11*d.* sterling money, besides interest thereof for upwards of seven years, the said captain Benson and his ship's crew were turned into their long boat, and left to the mercy of the waves to shift for themselves, and the said ship and cargo were carried into Porto Rico; and that the said William Benson soon after landing at St. Christopher's, went thence immediately to Jamaica, and in behalf of himself and the petitioners, applied to admiral Stewart, who was then commander in chief of his Majesty's ships of war then stationed there for relief, who sent his Majesty's ship the Experiment, capt. Henry Reddish commander, with the said William Benson on

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circumstances of insult and barbarity, he displayed the ear, which he had preserved, as some assert, in a box, and others in a bottle, asserting, that after tearing it off, the Spaniard had said to him, 'Carry it to your King, and tell 'his Majesty that if he were present I would 'serve him in the same manner.' His evidence is mentioned as a model of noble simplicity. One point, in particular, was ostentatiously circulated. Being asked by a member what he thought when he found himself in the hands of such a barbarian, he replied, 'I recommend-'ed my soul to God, and my cause to my 'country.' These words, and the display of his ear, 'which, wrapt up in cotton, he always 'carried about him,' filled the House with indignation.

"The effect of this ridiculous story on the nation at large, was proportionate to the impression of horror and vengeance it created in the House of Commons. It was made the vehicle of popular frenzy, and so highly inflamed the public mind, that Pulteney declared in parliament, the very name of Jenkins would raise volunteers.

"It was positively asserted in the contemporary publications, that Jenkins was examined at the bar of the House of Commons, and gave the evidence mentioned in the text, and it is generally admitted as a fact; yet it is remarkable that no traces of his evidence are to be found in the Journals. The whole that is mentioned in the Journals are the two following passages:

"16th March. 'Ordered, That captain 'Robert Jenkins do attend this House immediately.'

"17th March. 'Ordered, That captain 'Robert Jenkins do attend, on Tuesday morning next, the Committee of the whole House, 'to whom the Petition of divers merchants, 'planters, and others, trading to, and interested 'in, the British plantations in America, in behalf of themselves, and many others, is referred.' But on Tuesday the 21st, there is no farther mention of Jenkins.

"See also Gentleman's Magazine for July 1736. Where it is said, that the Spanish captain was a Lilliputian (English) Renegado.—London Magazine.—Chandler.—Smollet, vol. 3, p. 19.—Belsham, vol. 2, p. 3.—Bryan Edwards's History of the British West Indies, vol. 1, p. 144.—Voltaire, who never spoils a good story in the telling, says, 'Le capitaine Es-'pagnol avait saisi le vaisseau de Jenkins, mis 'l'equipage aux fers, fendu le nez et coupé les 'oreilles au patron. En cet etat Jenkins se 'presenta au parlement, &c.' Histoire de la Guerre de 1741.

"Pope has thus ludicrously mentioned the incident:

> 'The Spaniards own they did a waggish thing,
> 'Who cropt our ears, and sent them to the king.'

In spite of these authorities, I am inclined to give credit to the suggestion of Tindal, 'that 'Jenkins lost his ear, or part of his ear, on 'another occasion, and pretended it had been 'cut off by the crew of a guarda costa,' vol. 20, p. 372. It would be unjust to the Spaniards not to mention, in this place, a counter story, which was no less believed in Spain than the 'fable of Jenkins's ears' in England. 'Un 'capitaine Anglois, après avoir, par un trait de 'perfidie, et sous pretexte de commerce, invité 'deux gentilshommes Espagnols à bord de son 'vaisseau, les laissa sans manger pendant deux 'jours, pour leur extorquer une rançon; mais, 'comme cet expédient ne lui reussit pas, il 'coupa à l'un des deux les oreilles et le nez, et 'le força, le couteau sur le gorge, de les 'manger; procédé, qui, sans contredit, mettoit 'les Espagnols en droit d'user de représailles; 'aussi, en usèrent ils à la rigueur.' Histoire du Ministère du chevalier Robert Walpole, tom. 3, p. 408."—Coxe's Memoirs of Sir Robert Walpole.

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board, to Porto Rico, in order to demand the restitution of the said ship and cargo; and that accordingly the said captain Reddish, upon his arrival there, sent a letter, dated the 31st of January 1730, O. S. unto the governor of Porto Rico, demanding restitution of the said ship and cargo, and setting forth the illegality of the said capture; and that the said governor gave an immediate, though evasive, answer to the same; whereupon the said captain Reddish wrote another letter, dated the 1st of February 1730, O. S. in much stronger terms, and therein inclosed the copy of the declaratory sentence of the Judge of his Majesty's vice-admiralty court of Jamaica, relating to the capture of the said ship and cargo, and referring to a copy of such letters and declaratory sentence annexed to the said petition; and farther setting forth, that notwithstanding the said William Benson had the mortification to see the said ship at Porto Rico aforesaid, and was ready to prove the capture illegal, and although the said captain Reddish made such demand, as aforementioned, yet the petitioners or the said William Benson could never regain the said ship or cargo, or any part thereof, or procure any manner of satisfaction for the same; and further setting forth, that afterwards, viz. the same year 1730, the petitioners made application to this House, in order to be redressed in the premises, and the mate and carpenter of the said ship were examined at the bar of this House, and thereupon several papers were produced, and as they have been informed, left in the custody of this House, fully proving the illegality of the said capture; but although his Majesty was thereupon graciously pleased to use his royal endeavours to procure satisfaction at the court of Spain for the petitioners great loss, yet the same have hitherto proved altogether ineffectual; and that the petitioners, observing that there have been several petitions of the like nature presented to this House, thought it not improper to crave again the aid and assistance of the House, in this unfortunate affair; and therefore praying, that this House would be pleased to take the premises into farther consideration, and grant such relief therein, as to the House shall seem meet."

A Petition of the Merchants in Glasgow, trading to the British plantations in America, in behalf of themselves and many others, was presented to the House, and read; setting forth, "That the American colonies (particularly the West India islands) are the principal mercat for the manufactures of this country, whereby many thousands of his Majesty's subjects are employed and maintained; and that the trade to these parts has, for a course of years, been greatly obstructed by the depredations of the Spaniards, who have in the open seas violently attacked and boarded several ships in the lawful course of their voyages, and unjustly seized and made prize of them, with their effects, to the great loss and damage of the unhappy sufferers, and the discouragement of the trade and manufactures of that part of the island; and representing to the House, that notwithstanding his Majesty's most gracious interposition, the Spaniards, so far from repairing the former losses, still continue the same practices, and particularly last year have carried their insults to a greater height than ever, by stopping, plundering, and seizing several ships belonging to his Majesty's subjects, in the destined course of their voyages to and from the British colonies, condemning them, with their loadings, amounting to a considerable value, and by treating cruelly and inhumanly the captains or masters of some of these ships, with their crews, contrary to the laws of nations, and in manifest violation of the the treaties subsisting between the two crowns; and that by these arbitrary proceedings, the trade and navigation to and from America is rendered very unsafe and precarious, insomuch that the insurance from Jamaica is greatly risen on these accounts only, a charge, which that trade in its present low state is altogether unable to bear; and that without a speedy and effectual remedy, the American trade and navigation will be, together with the revenue arising therefrom, very much diminished, if not entirely lost; and that any nation's assuming the power of rummaging and detaining British ships (at their pleasure) upon their lawful voyages in the American seas, is in effect, as the petitioners apprehend, claiming and exercising the sole sovereignty of those seas, and an high indignity to the honour of the British nation; and that the insulting the persons and plundering the properties of his Majesty's subjects, as the petitioners conceive, is and will be attended with consequences very fatal to Great Britain; and therefore praying the House to consider the premises, and to give such remedy as to the House shall seem meet."

March 21. Mr. Pelham of Lewes,

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from the commissioners for trade and plantations, presented to the House, pursuant to their Address to his Majesty, copies of Papers received by the lords commissioners for trade and plantations, relating to the Losses sustained by his Majesty's subjects, by Depredations committed by the Spaniards in Europe or America to Midsummer 1737, which have not already been laid before this House;

Ordered, That the said Papers be referred to the consideration of the Committee of the whole House, to whom the Petition of divers merchants, planters and others, trading to and interested in the British plantations in America, in behalf of themselves and many others, is referred.

Then the House resolved itself into the said Committee; and after some time spent therein, Mr. Speaker resumed the chair; and Mr. Alderman Perry reported from the Committee, that they had heard farther evidence touching the matter referred to them; and that he was directed by the Committee to move, that they may have leave to sit again.

March 28. The House resolved itself into the said Committee, and after some time spent therein, Mr. Speaker resumed the chair; and Mr. Alderman Perry reported from the Committee, that they had further heard evidence and counsel upon and gone through the matters to them referred, and had come to a Resolution, which they had directed him to report, and had also directed him to make a motion to the House, when the House will please to receive the same.

March 30. The House resolved itself into a Committee of the whole House, to consider of the said Report. Mr. Alderman Perry being in the chair, several witnesses were examined to prove the allegations of the Merchants' Petition. Mr. Murray, the counsel for the Merchants, made a speech at the bar to shew the justice of their complaints, and they being directed to withdraw;

Mr. *Pulteney* rose and spoke as follows:*

Sir; The amazing instances of cruelty, barbarity and injustice, which we have heard proved at the bar of this House, to have been exercised by the Spaniards upon his Majesty's subjects, might justify me in making a motion, for our enquiring into the causes of the nation's having suffered so often and so long, without having ever once shewed a proper resentment: but as some gentlemen might perhaps think, this would be carrying the thing farther than it ought to be carried at present; I shall leave those who are to blame, if there be any such, to the reproaches of their own conscience, and proceed to examine the several sorts of insult and injuries, that have been put upon the nation; because I am sure, the least we can propose to do upon this occasion, is to vindicate and establish, as far as can be done by any resolutions of this House, those rights and privileges which the Spaniards have, either by their own rashness or our pusillanimity, been encouraged so frequently, so manifestly, and so contemptuously to violate.

But before I begin, Sir, I must observe, that this is not the first time our merchants have applied to this House for redress; for they applied twice before, but, I am sorry to say it, ineffectually. Upon each of their former applications they represented to us, how they had been ravaged and plundered; and as they, at each time, fully proved their allegations, they ought then to have met with redress: a full and immediate reparation ought then to have been peremptorily insisted on; and upon its being refused, or unreasonably delayed, our ministers ought to have advised his Majesty to declare war: this, Sir, they would have done, if they had not had a greater regard for their own ease and security, than they had for the honour and interest of the nation.

The rights of this nation, Sir, upon which the Spaniards have already encroached, and which they now dispute, are in themselves distinct; and though they come under several separate heads, yet each of them is of importance enough to have roused any ministry, excepting our own, before this time, to a just resentment. The first right I shall take notice of, is that which our merchants and sailors have, to sail with their ships on any part of the seas of America, provided they do not touch at any place possessed by the Spaniards, with a design to carry on a trade or traffic with the inhabitants. This is a right, Sir, which is common to us with all other nations; and therefore, by allowing ourselves to be disturbed in the enjoyment of such a right, we not only betray the right of our own subjects, but we betray those of mankind in general. A nation may, when not restrained by particular treaties, forbid foreigners to sail to,

* From the London Magazine.

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or traffic in, the ports, havens, or creeks, within their dominions, because in these they may have an absolute property; but no nation can have such a property in the open seas, as may entitle them to interrupt the ships of other nations, in their passage to and fro upon those seas, about their lawful business. A man's ship is his house, and it is by the law of nations a trespass to enter into it against his will, unless he that enters has some dominion or jurisdiction over him. Accordingly, the Spaniards have, ever since they first got any possessions in America, made it unlawful for the ships of foreign nations to sail to any of the ports or havens, or other places possessed by the subjects of the king of Spain, in that part of the world, in order to carry on any trade or traffic with the inhabitants, excepting when the subjects of a nation at peace with them were driven by stress of weather, or want of provisions, or pursuit of pirates into their ports or harbours; but they never could have, by the law of nations, nor have they ever, till of late years, pretended to any dominion or jurisdiction over the open seas of America, nor to any right or title to enter into and search the ships of foreign nations sailing upon those seas. They therefore can have no right to interrupt, much less to search any British ship, sailing upon the open seas of America, unless they have got it by some particular treaty between the two crowns.

This, Sir, naturally leads me to examine whether by any treaty now in force, they have acquired any such right; and to me it appears they have not. The 8th Article of the treaty made in the year 1670, which is the foundation of all our succeeding stipulations with Spain, relating to the American trade, says, "That the subjects of the two contracting parties respectively, shall forbear and abstain from sailing to, and trafficking in, the ports and havens, which have fortifications, castles, or warehouses, or in other places possessed by the other party." Consequently, the subjects of both may lawfully, with regard to one another, sail to, and traffic in every port, haven, and other place in America, not possessed by the other; and that both subjects may do this the more freely and securely, it is by the 15th Article of the same treaty, expressly stipulated, "That the freedom of navigation ought by no manner of means, to be interrupted, when there is nothing committed contrary to the true sense and meaning of that treaty." Which evidently shews that no British ship ought to be so much as interrupted in her navigation by any Spanish ship, unless she is actually found trafficking in some places possessed by the king of Spain. And this will be still more evident, if we consider the whole of this 15th Article; for by the first part of it, it is declared, "That that treaty shall no way derogate from any pre-eminence, right, or signiory, which either the one or the other of the contracting parties, have in the seas, straights, or fresh waters of America; and that they shall have and retain the same, in as full and ample a manner, as of right ought to belong to them." Then follow these words: "Be it however understood, that the freedom of navigation ought by no manner of means to be interrupted, when there is nothing committed contrary to the true sense and meaning of this treaty." From hence we may see, that the last part of this article is by way of exception to the first; and that though each party is to continue to enjoy every pre-eminence, right, and signiory, he before held, yet neither party is to make use of any such pre-eminence, right, or signiory, so as to interrupt the freedom of navigation, when nothing has been committed contrary to the true sense and meaning of the 8th Article before-mentioned.

From what I have said, Sir, it is evident, our subjects have such a right as I have mentioned; and therefore my first motion shall be, That it is the opinion of this committee, that it is the natural and undoubted right of British subjects, to sail with their ships on any part of the seas of America, to and from any part of his Majesty's dominions; and that the seizing and confiscating such ships, as are not sailing and trafficking in the havens and ports which have fortifications, castles, magazines, or warehouses, or in other places possessed by the subjects of the king of Spain, is contrary to equity and justice, and a manifest violation of the treaties subsisting between the two crowns.

But, Sir, as it would not, perhaps, be thought fair to desire a question upon this motion, without having previously given you notice of all the following propositions or motions I intend to make upon this occasion, I shall state and explain every one of them regularly, in the course I am to make them, before I desire your opinion upon the proposition I have now made, For this purpose, I must acquaint you, that the next right, which I think now

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ought to be established by a resolution of this House, is that which the subjects of Great Britain have, to carry in their ships all sorts of goods, merchandize, or effects, from one part of his Majesty's dominions to any other part of his Majesty's dominions. This right, Sir, is likewise a right, which we enjoy in common with all other nations; for the subjects of every state have a right to carry in their ships, whatever goods they please, from one part of their dominions to another, unless the transporting of such goods be prohibited by a law amongst themselves. In this case it is ridiculous to talk of goods made contraband by the laws of any other nation; because no nation has a right to prohibit the subjects of any other independent nation, to transport any sort of goods from one part of their own dominions to another. The Spaniards may as well pretend that we shall not transport gold or silver, or logwood, from Bristol to London, as to say, that we shall not transport any such commodity from Jamaica to London; and they might as well send their guarda costas into the British Channel, to search our ships in their passage from Bristol to London, and to seize them, if any such goods should be found on board, as to send guarda costas to search our ships on their passage from Jamaica, or any other of our dominions in America, to London, and to seize them, in case of their finding any such goods on board. Indeed, as usurpations are things of a quick growth, and extremely fertile, if we continue in our present lethargy but a few years longer, I do not know but I may hear, that the mouth of the Thames is beset with Spanish guarda costas, in order to seize all British ships, sailing in or out, that shall be found to have on board what they may please to call contraband goods: nay, I do not know but this might have happened already, if it had not been for our neighbours the Dutch, who, I believe, draw most of our Spanish gold and silver away from us: and therefore would not tamely allow a trade, even of ours, to be interrupted, by which they are so great gainers.

Contraband trade, Sir, is a trade that never can take place but in time of war. To talk of a contraband trade in time of peace, is ridiculous, because all treaties, not only betwixt the Spaniards and us, but betwixt us and any other nation, define contraband goods to be arms and provision carrying to an enemy. These goods are specified in the treaties, and it is expressly declared that these, and no other, shall be deemed contraband. The trade therefore in dispute betwixt us and Spain is properly a prohibited trade, and there is no manner of doubt that any nation not restrained by particular treaties, may make a law for prohibiting the importation or exportation of any particular sort of goods they please, into or from their own dominions. Of these foreigners who trade with them are obliged to take notice; and may be punished, if they transgress the laws of the country with which they trade: but foreigners who have no design to carry on any trade in that country, nor to touch at any of its ports, have no occasion to take the least notice of what goods are prohibited in that country; nor can they be punished, though they sail, in the open seas, along the coasts of that country, with such goods on board; for it is the law of a particular country alone that makes goods prohibited; and where the laws of that country have no force, the goods cannot be supposed to be prohibited.

Now, Sir, with regard to British ships, trading to or from any port in Old Spain, they may have prohibited goods on board, and may, in a proper manner, be searched by any Spanish officer, properly commissioned for that purpose; but with regard to any British ship trading to or from any port in New Spain, or in any of the Spanish dominions in America, it is ridiculous to say she can have any particular sort of prohibited goods on board, and consequently all the goods on board, of whatever kind, must be so, and ship and cargo may be seized and made prize of: nay, if she had not one shilling's worth of any sort of goods on board, the ship may be seized and made prize of; but in either case, she is not seized for having contraband goods on board, but for having been engaged in an unlawful trade.

This, Sir, is the state of the case with respect to prohibited goods; and if we examine the two fundamental treaties between Spain and us, I mean the treaties of 1667 and 1670, we shall find them exactly agreeable to the case as I have stated it. In the treaty of 1667, which regulates the trade between Britain and Spain in general, there is mention made of prohibited goods; but every one may see, that wherever there is any mention made of the word prohibited, it relates to the trade between Britain and Old Spain; and with respect to that trade, it is determined by that treaty, what sort of goods shall be

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deemed prohibited; and a method is particularly prescribed, which the Spaniards are obliged to observe, when they visit British ships, bound to or from any of the ports of Old Spain, in search of prohibited goods. Whereas in the treaty of 1670, which was made expressly for regulating our mutual affairs in America, the word contraband is not so much as once mentioned in the whole treaty; and the reason is very plain; for where there is no trade, there can be no such thing as prohibited goods; and as all trade in that part of the world, between the subjects of the two contracting parties, was by that very treaty expressly forbid, therefore it would have been absurd to have made any particular regulations with regard to the species of goods, in which their trade was to be carried on.

I know, Sir, the Spaniards pretend, that those goods which they ridiculously call contraband, are goods which can be had no where but in their plantations in America; and that therefore, if any such goods be found on board any of our ships in those seas, it is a certain proof that such ships have been carrying on an unlawful trade on their coasts in that part of the world: but I likewise know, Sir, that this fact is false. There are no goods that can be found in the Spanish settlements, but what may be found, and may be purchased, in our own settlements; even Spanish pistoles and pieces of eight may be found in our settlements, without any of our subjects having been engaged in an unlawful trade with their settlements; because, besides the lawful trade now carried on between our South-sea company and their settlements, the Spanish governors themselves often send to our settlements for provisions; these provisions they purchase either with the current coin of Spain, or with the goods of the produce of their settlements in America; nay, I am told, Sir, that it would be found impossible for the Spanish settlements to subsist, for want of the necessaries of life, were they not supplied by our plantations in this manner. These goods, or this money, being thus lawfully brought to our settlements surely our ships may take them on board, and may bring them to Britain, without having ever been engaged in an unlawful trade with the Spanish settlements in America.

But supposing, Sir, that some Spanish gold or silver, either bars, or in pistoles and pieces of eight, or a parcel of goods of the growth of the Spanish settlements in America, had been originally brought from thence by means of an unlawful trade; suppose such a thing could be fully proved, which I think is impossible; yet if those effects be once landed in any of our settlements, and there sold to a fair purchaser, and by him put on board a ship, in order to be carried to any other port in the British dominions, I insist upon it, that the Spaniards have no right to search that ship, and much less to seize and make prize of her, or of any part of her cargo; for nothing can intitle them to seize, and make prize of a British ship, but her being actually found trafficking in the ports, havens, or places possessed by the subjects of the king of Spain in America. Surely, Sir, an illicit trade with the Spanish settlements in America, does not fix such a *vitium reale* upon the goods so brought from thence, that they may be seized or reclaimed by the Spaniards, wherever, and whenever, they can afterwards find them; and that notwithstanding their having been sold to a fair purchaser in an open market. This would be allowing the Spaniards a greater privilege with respect to goods purchased from them at an equitable price, though by means of an illicit trade, than is usually allowed to an owner of stolen goods by any law in the world. It is a privilege which was never granted them by any nation; and if we should through fear of a war make them such a concession, I should expect that they would soon pretend to come and search our Bank, and all our goldsmiths and other shops in London, in order to seize and carry off all the Spanish gold and silver they found; for if they can, by the means they have used, but once obtain one unjust concession, no man can tell how far they may afterwards go, or where their compassion towards us may induce them to stop.

Upon this point, Sir, I have been the more particular, because I think the Spanish ministers, and our ministers together, have by their memorials quite confounded it. By confounding the treaty of 1667, with that of 1670, the Spanish ministers have insisted, and ours seem to have admitted, that there may be such a thing as contraband goods on board British ships, sailing in the seas of America; which I have shewn to be impossible: with respect to our South-Sea Company's ships, they may I admit carry on a prohibited trade, because they are by treaty allowed to have a trade under certain restrictions with the Spanish West-Indies; but no other ship of

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ours being by treaty allowed to have any trade with them; they never can fall under the intention of the treaties made to regulate the South-Sea Trade: therefore, I am surprized to find, that our ministers allowed the word contraband to be brought into the dispute; at least I am surprized, that upon its being first mentioned, they did not explain the point much more clearly than I find they have done in any of their memorials; for this seems to be the principal point in dispute between us, and ought therefore to have been explained in the most clear and succinct manner.

As this has not, in my opinion, yet been done, and as it is a matter of great importance, I think, Sir, it ought to be done by this House; and for this purpose, the next motion I shall make, shall be for this committee, to resolve that it is the indisputable right of the subjects of Great Britain, to carry in their ships all sorts of goods, merchandize, or effects, from one part of the British dominions, to any other part of the British dominions; and that no goods, merchandize, or effects so carried, are by the law of nations, or any other treaty subsisting between the two Crowns, to be deemed or taken as contraband goods, and that the searching of such ships on the open seas, under pretence of finding contraband goods, is highly injurious to the trade of this kingdom; a violation of the law of nations, and an infraction of the treaties subsisting between the two Crowns.

I must now take notice, Sir, of the right which the subjects of Great Britain have to possessions in the province of Jucatan, and to cut logwood in the Bay of Campechey. This is a right peculiar to this nation; but it is a right which the Spaniards cannot, with the least shadow of reason, controvert, because we were in possession of lands in that province, and were in use to cut logwood wherever we pleased in that Bay, long before, and at the time of the treaty of 1670; and since by the 7th Article of that treaty it is expressly stipulated, "That the king of Great Britain, his heirs and successors, shall have, hold, keep, and always possess, in full right of sovereignty, signiory, possession, and propriety, all the lands, countries, islands, colonies, and other places, be they what they will, lying and situate in the West-Indies, or in any part of America, which the said king of Great Britain and his subjects now hold and possess; insomuch that they neither can nor ought hereafter to be contested or called into question, upon any account, or under any pretence whatsoever;" therefore it must be granted, we have an uncontestable right to possess the same lands in that Province, and to cut logwood in that Bay; unless it could be shewn, that we have by some treaty since that time given it up. But so far otherwise, that this treaty, and this very right, has been confirmed by every treaty, between the two Crowns, since that time; and by the first Article of the treaty of commerce at Utrecht, this right is not only confirmed, but farther explained, by the addition of these remarkable words: "Without prejudice to any liberty or power, which the subjects of Great Britain enjoyed, either through right, sufferance, or indulgence."

But, Sir, to put this matter beyond all dispute, I must acquaint you, that as soon as the Spaniards began to contest this right with us, which was very soon after the treaty of Utrecht, notwithstanding the words I have mentioned, his late Majesty referred it to the board of trade, and that board, after a strict enquiry, and full information, reported, "That the said American treaty did establish a right in the Crown of Great Britain to the Languna de Terminos in the province of Jucatan, and the parts adjacent; those places, at the time of the treaty, and for some years before, being actually in the possession of the British subjects."

From what I have said, Sir, it is plain, that this right is still in the Crown of Great Britain, and therefore the 3rd resolution I am to propose shall be, that it may be resolved, that the subjects of Great Britain did hold, and possess lands in the Province of Jucatan in America, antecedent to and at the time of the treaty of 1670; which treaty confirmed the right, to every contracting party, of such lands or places, as either did at the time hold and possess. And that the subjects of Great Britain then had, and have at all times since claimed a right of cutting logwood in the Bay of Campechey, and enjoyed the same without interruption till of late years: which right seems further particularly secured to us, by the manner in which the first Article of the treaty of commerce at Utrecht, confirms the treaty of 1670, with these remarkable words; "without prejudice to any liberty or power, which the subjects of Great Britain enjoyed, either through right, sufferance, or indulgence."

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I am now come, Sir, to the last right, which I shall take notice of upon the present occasion; which is that right our subjects have to gather salt on the island of Tortugas, an uninhabited island in the West-Indies, which the Spaniards say belongs to them; but by what right, I do not know; for they have neither fort, castle, nor warehouse, upon the island, nor any other sign of possession that I know of. However, suppose they have the property, or rather the dominion of that island, it is certain we were in use, and claimed a right, to gather salt there, before and at the time of the treaty in 1670; therefore this right was confirmed to us by that treaty, and reconfirmed by the treaty of commerce at Utrecht: but this is not all, Sir, with respect to this right; we have an express and a particular convention between Spain and us to plead in its favour. By the 3rd Article of the treaty of commerce between Great Britain and Spain, concluded at Madrid in the year 1715, this right or privilege is expressly confirmed in these words: "His Catholic Majesty permits the said subjects (meaning British) to gather salt in the isle of Tortugas, they having enjoyed this liberty in the reign of king Charles 2, without interruption."

From all these treaties, and from a possession almost uninterrupted for above 60 years, one would have thought, Sir, the Spaniards would never have attempted to disturb us in the possession of a right, so often, so expressly, and so particularly confirmed; but no words, no treaties, can defend the rights of a nation, when their sword seems to be rusted in its scabbard. Notwithstanding all these treaties, the Spaniards, about six years since, attacked our fleet of merchant ships, that was gathering salt on that island, fired several broad-sides upon one of his Majesty's ships of war, serving as their convoy, took and made prize of four of the merchant ships, and would have taken a great many more of them, if it had not been for the good conduct and valiant behaviour of the gentleman that commanded the man of war, then serving as their convoy; who, notwithstanding the great superiority of the enemy, kept them in play, till most of the merchant ships got off; and thereby shewed to the Spaniards, that their impunity was not owing to the cowardice of our sea-captains, but to the tameness of our ministers. As that gentleman then shewed that he had courage to offend, as well as conduct to defend, I hope if we do come to a rupture with Spain, he will be one of the first that shall be commissioned.

This outrage, Sir, was not committed by stealth, or by persons not properly commissioned: it was not committed by common guarda costas, who often have their commissions only from the Spanish governors in America. No, Sir, it was committed openly, avowedly, and by Spanish men of war, bearing the king of Spain's commission, and having express instructions from his governors for what they did.

These instructions, Sir, were not to persuade, but to compel, as all instructions to ships of war ought to be; for fleets or armies were never, till of late years, sent out as orators or ambassadors; they were never sent out but against those that had been found to be obstinate; and the obstinate were generally at last obliged to pay the charges of fitting them out.

For my part, Sir, I am surprized, that such an open and avowed insult upon the flag of the crown of Great Britain, was not pursued with immediate vengeance: I am surprized we had the patience to send to the court of Spain to demand satisfaction and reparation; and yet, Sir, I don't find that we have hitherto received any satisfaction for the affront, nor any reparation for the damage done. Nay, the Spanish court seems to mind it so little, that they have not so much as once mentioned it in their last memorial. This affair, I must say, Sir, puts me in mind of the story of a gentleman, who, upon receiving a box on the ear, asked him that gave it, if he was in jest or in earnest; and upon the other's answering, he was in great earnest, the honest gentleman replied only, I am glad you are, Sir; for I do not like such jests. Whether we had our joke upon this occasion, I do not know; but I hope the nation will not content itself with returning a joke for such a serious blow.

It is not restitution, Sir, it is not reparation, that can atone for such an avowed insult; nothing can satisfy the honour of the British flag, but the inflicting of a condign punishment upon those captains that committed the outrage, or upon the Spanish governor that gave the instructions. Either the one or the other must be hung up, and, I think, hung in chains too, upon the island where the outrage and robbery was committed, as a monument of British resentment. If we are negociating, if we

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continue to negociate, this ought to be insisted on as a preliminary; and if it is not granted as a preliminary, we ought immediately to break off negociations, and revenge ourselves upon the country, that dares to protect such criminals; for if we allow such an affront as this to pass unrevenged, I will take upon me to foretel, that the Spaniards will perform no promise they make to us, nor observe any treaty they conclude.

However, Sir, I shall be for leaving it entirely to his Majesty to determine, what satisfaction or reparation ought to be deemed sufficient; but as to the right we have of gathering salt in that island, I think it ought to be asserted by a resolution of this House: therefore the fourth proposition I shall make to you, shall be, to resolve, That the attacking of a fleet of ships gathering salt in the island of Tortugas, then under convoy of one of his Majesty's ships of war, by two men of war belonging to the king of Spain, firing on the convoy, and taking four of the said ships, was a notorious infraction of the convention signed at Madrid, December 14, 1715, and a high insult on the honour due to the flag of Great Britain.

Having thus, Sir, mentioned and explained the several rights of this nation in America, which I take to be of such consequence, that they ought to be particularly established and asserted, in the most solemn and the most explicit manner, by the resolutions of Parliament; I shall next take notice, that it appears that the court of Spain, though it does not in direct terms deny that we are entitled to some of these rights by the treaties I have mentioned, yet that it raises so many difficulties, and claims such privileges as in the main amount to a total prohibition of all the British navigation and trade in America. It has likewise been proved at our bar, that the subjects of this nation have been disturbed and interrupted in the exercise of every one of them, by the Spanish guarda costas in America. The Spaniards have of late years not only seized and confiscated our merchant ships for carrying on their lawful trade in the island of Tortugas and bay of Campechey; but they have stopt, searched, and plundered them, for sailing upon the open seas of America; and have even seized and made prize of them, for transporting some sorts of goods from one part of his Majesty's dominions to another, in manifest violation of the known rights and privileges of the British nation.

These are rights, Sir, which are all so firmly established to us by treaties; they are rights which we have been so long in possession of, that I am surprized how the Spaniards could find a pretence for controverting any one of them; but when I consider the great superiority of our naval force, and the great expence we have been at of late years in supporting that naval force, and in fitting out almost every year formidable squadrons, I am much more surprized to find, that the Spaniards have been so long allowed not only to controvert, but actually to interrupt and disturb us in the possession and exercise of those rights. If they had rested satisfied with denying that we had any such rights; if they had refused to acknowledge them in direct and explicit terms, we might, for the sake of peace and conveniency, have submitted for a short time to such a piece of injustice; but their plundering and making prize of our merchant-ships, for exercising any of those rights, is an injury which we cannot in honour submit to; and their pretending to stop, search, or seize, under any pretence whatsoever, those British ships, which they find sailing upon the open seas, either in America or elsewhere, is an usurping of a right or dominion which is inconsistent with that trade, which is the life and soul of this nation; and therefore claimed our utmost attention, in the very beginning. We all know, Sir, how soon prescription establishes a right: usurpations of every kind gather strength from their continuance, and that which was at first a most unjust and a most violent usurpation, may at last become a settled and an uncontrovertible right.

I must confess, Sir, that from our conduct of late years, I am apt to suspect, there are some amongst us, who think the matters now in dispute between Spain and us, of so little consequence, that no one of them is worth our contending for. If there be any such gentlemen in this House, it would be easy to shew, that they are most egregiously mistaken; it would be easy to demonstrate, that every one of the rights I have mentioned, is of such consequence to our trade (which is the chief support of our riches and power, and the only support of our naval power) that we ought to contend for it as if we were contending *pro aris et focis*; but I cannot well suppose there are any such gentlemen in this House, and therefore I shall not at present enlarge upon this point; because by our being now in a Committee, I have a

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privilege of speaking again upon the same subject; and that privilege I shall beg leave to make use of, if I hear any gentleman pretend to insinuate (for I know it will not be directly asserted) that none of the rights I have mentioned, are worth the care of a British parliament.

For this reason, I say, Sir, I shall not now insist upon the great consequence of all or any of the matters which the Spaniards have been of late tamely allowed to dispute with us; and as I believe no gentleman will say, but that it has been fully proved at our bar, that our merchants have been plundered, our ships unjustly seized and confiscated, and our seamen cruelly used; therefore, without making an ungrateful repetition of the indignities and injuries which have been proved at our bar, I shall mention to you the 5th motion I design to make; which is, That for many years last past, the liberty of navigation in the American seas hath been unjustly disturbed by the Spaniards, under pretence of searching for and finding illicit trade; the British ships unlawfully seized upon the open seas, plundered and confiscated; the sailors robbed and inhumanly tortured, imprisoned and made slaves, to the grievous loss of the merchants, the obstruction of the commerce, and the dishonour of the nation.

And the last proposition I shall make to you, Sir, upon this occasion, shall be, That notwithstanding the repeated application to parliament, the treaty of Seville, and the assurances so frequently given to the merchants, of procuring reparation for their losses and ill usage, and notwithstanding the expectation of the nation of receiving just and ample satisfaction for the cruelties exercised on its subjects, and the insults offered to itself, nothing has in so many years been obtained from the court of Spain, effectually to satisfy the losses, repair the injuries, or retrieve the honour of the nation, though the said treaty of Seville, so advantageous to Spain, hath been punctually executed on the part of Great Britain.

This, likewise, Sir, is a proposition which I cannot think any gentleman in this House will pretend to oppose; at least, I cannot suggest to myself any plausible reason for opposing it. Every gentleman knows, how many petitions have been presented to this House by our plundered merchants and seamen: for several years, we have seldom been a session without having one or more such petitions presented to us. Upon these applications we have already twice addressed the crown: we have already twice declared, that we would support the crown in any measures that should seem necessary for vindicating the rights and the honour of the nation; so that if our fellow-subjects still remain unsatisfied, if those ravages and depredations are still continued and multiplied upon us, if the honour of the nation still lies grovelling in the dust, the fault cannot be laid at our door. Former ministers have been known, Sir, to excuse themselves, sometimes with reason, oftener with none, by saying that the parliament refused to support them in those measures that were necessary for protecting the trade, or vindicating the honour of the nation; but our ministers never can plead that excuse. Indeed I must say, if negociations, if letters, memorials and representations, had been methods proper or sufficient for obtaining redress, it appears from the piles of papers that have been laid before us, that our ministers have not been remiss in endeavouring to obtain satisfaction and reparation for the injuries and insults we have met with; but, in my opinion, they have very much mistaken the methods proper to be made use of upon such occasions.

It is amazing, Sir, to take a view of the heaps of letters, memorials and representations, which we have already before us, relating to this affair. They look more like the papers belonging to an hereditary suit in Chancery, than like the papers belonging to a negociation between two sovereign and independent nations. In a suit at law, or in equity, it is the business of those who carry on the suit, to prevent its being speedily brought to a conclusion, because they get so much by it yearly and termly, as long as the suit continues, and those annual profits must cease as soon as the suit is at an end; and as they are paid by the sheet, without any regard to the matter, it is their interest to heap process upon process, and in every paper, to be as verbose and prolix as their invention can suggest. But negociators are never paid by the sheet, nor ought they to be made to expect their chief reward till after the negociation is brought to a conclusion; therefore it is not their interest to be verbose, or to heap memorial upon memorial; nor is it their interest to spin out a negociation. I hope, Sir, that no negociation in which we have been lately concerned has been spun out for the sake of continuing salaries to the negociators: I hope

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that none of those letters, memorials, or representations have been multiplied or extended, for the sake of adding to, or increasing the salaries of those who were concerned in drawing them up; therefore I cannot avoid being surprised at the multitude and the length of those papers, which seem to belong to the late negociations between Spain and us.

Besides, Sir, in all negociations it is generally the duty of the negociators, of one side or other, to bring the negociation to a speedy issue; but where a nation has been injured, and is in a condition to revenge itself, it is more particularly incumbent upon its negociators to bring the negociation to an immediate issue, of one kind or other; and for that purpose, to be short and substantial in every memorial, answer or reply, they deliver, and peremptory in every demand they make. When the known rights of a nation are invaded, it is ridiculous to enter into a tedious and metaphysical discussion of the point of right; and still more ridiculous to make long answers to every quirk, because there would in that case be no end of cavilling; for the councils of nations are never to be swayed by subtle arguing, nor is it consistent with the dignity of sovereigns to plead their cause, like barristers pleading for their clients before a court of justice.

When an independent and a powerful sovereign has been injured, he that speaks in his name, Sir, may explain the nature of the injury that has been done, and ought to wait a reasonable time for an answer: he may even go the length of a reply; but if any sophistical arguments or delusive evasions have been made use of in the answer given him, he ought to think it beneath the character he bears, to take notice of them in his reply; and the conclusion of his reply ought always to be a peremptory demand of justice within a time limited. This is the utmost length a sovereign ought to go, if he be at that time in any tolerable condition for doing himself justice; and if we had made use of this method of negociation with Spain, I am convinced the insults and injuries put upon us by that nation, would have been far less numerous, and less dishonourable for us, than they are at present.

For this reason, Sir, if our negociations must be continued yet a while longer, I hope they will be put upon a different footing, and carried on in a different manner, from what they have been; but for my part, I do not see what security we can expect from any negociation or treaty, for though the treaty of Seville be not such a one as it ought to be, and might have been, if the squadrons we were at the expence of fitting out about that time, had received orders to compel as well as persuade, yet by that treaty the crown of Spain engaged itself, almost as expressly as it can, I believe altogether as expressly as it will, be engaged by any treaty we can now obtain by peaceable means, to give satisfaction for all the depredations that had been committed before that time, and to prevent any such for the future. By the very first article of that treaty, all former treaties were renewed and confirmed; and by the first separate article, most of the treaties between the two crowns are particularly mentioned, and again expressly confirmed; from whence we may see, that the crown of Spain was engaged by that treaty, as much as it can be by general words in any treaty, to prevent any injuries being done by the subjects of Spain to the subjects of Great Britain. It is true, the treaty of 1670 is not mentioned among the rest in the first separate articles of the treaty of Seville, nor is it mentioned in the other famous treaty, made between Spain and us in the year 1721. Whether this happened by neglect, or if there was any hidden design in not mentioning that treaty among the rest, I shall not pretend to determine; but I cannot think the Spaniards will from thence pretend to say, we have passed from, or given up that treaty; because I do not think it is their interest to say so: For if it could be supposed, that there is no such treaty now subsisting between the two crowns, there is nothing to hinder us from trading with their subjects in New Spain by open force; any laws or prohibitions they could make against such a trade, would be of very little signification: Even all the guarda costas they could send thither would be far from being able to prevent our carrying on such a trade; because we could send sufficient squadrons of men of war to protect all our merchant ships employed in that trade, without a breach of any article either in the treaty of 1721, or in the treaty of Seville.

Then, Sir, with respect to the depredations that had been committed upon our merchants before the conclusion of that treaty, we know that by the 6th article thereof, commissaries were to be appointed to examine and decide what concerned the ships and effects taken at sea, and

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also all our pretensions relating to abuses committed in commerce, and also all other pretensions as well in the Indies as in Europe; and his Catholic Majesty expressly engages, to cause to be executed punctually and exactly, what should be decided by the said commissaries, within six months after the making of their report. These commissaries, this nation has reason to know, were accordingly appointed, but as the Spaniards had never, I believe, an intention to perform this engagement, they took care that their commissaries should never agree to any report; and upon this frivolous pretence, I suppose, among others of the same kind, they have ever since refused to make us the least satisfaction for any of the depredations committed before the concluding of that treaty, though it be now above eight years since the treaty was concluded, and above five years since the commissaries ought to have made their report, according to the 8th article of the same treaty.

From what I have said, Sir, it will appear, I think, that we can have no great expectations from any future treaty we can make; but whatever may be the success of our present negociations, whatever we may expect, whatever advantage we may reap from any future treaty, it is certain we have as yet received no satisfaction or reparation, notwithstanding the express promises made by the treaty of Seville, and notwithstanding that treaty's having been performed by us in the most punctual manner; nay, in a manner prejudicial to ourselves, and highly advantageous to Spain: Therefore I hope no opposition will be made against that part of the resolution I am to move for. Then as to the assurances that have been given our merchants, of procuring reparation for their losses and ill usage, they have been so frequent, so express, and are so well known, that I cannot think I have the least occasion for repeating or explaining them; for which reason, I shall for the present conclude with begging, that gentlemen would consider for what purposes we sit here. We assemble in this House, in order to receive the petitions, and hear the complaints of our injured subjects; but we are not to receive and hear only, we are likewise in duty bound to provide a remedy for the grievances they justly complain of, and to take the most effectual measures for that purpose. We have twice already come to general resolutions upon this subject: we have twice already found, that such general resolutions have produced no effect; therefore it would be unpardonable in us to proceed no farther upon the present occasion. Perhaps some gentlemen may think, we ought now to go much farther than I have taken the liberty to propose; but I cannot think any gentleman will oppose our going thus far; for the least we can do is, to assert those national rights which seem of late to have been neglected; because, after such a solemn and public declaration of our rights, I hope no minister will hereafter dare to give up any of them by treaty, or to allow them to be any longer incroached on and violated, under the pretence of a negociation.

Sir *Robert Walpole* answered thus:

Sir; I do not rise up to oppose, or in the least to dispute any of the rights or privileges which the honourable gentleman has been pleased to mention. I am fully convinced, that this nation has an indisputable title to all those rights and privileges, and I shall always be as zealous for defending them as that gentleman or any other. Nay, I am convinced, that no British subject will pretend to controvert any one of them; and therefore I shall readily agree with the honourable gentleman in every thing he has said in support of those rights and privileges; but I cannot agree with him in thinking, that upon this occasion they ought to be so particularly vindicated and asserted by the resolutions of this House. I cannot think there is at present the least occasion for our coming to any such resolutions; because, I believe, there is no British subject that will pretend to question any of the rights he has mentioned, or that will dare to say, that any one of them ought to be given up. It is, to be sure, unnecessary, and I must think inconsistent with the dignity of this House, to come to any resolution for determining a question that is not disputed by any subject of Great Britain; and with respect to foreigners, our resolutions cannot be of any signification; because foreigners are no way bound nor can they be fore-closed by any of our determinations.

But this is not all, Sir; our coming to particular and peremptory resolutions, is not only unnecessary, but it would be hurtful. It would be pushing the thing a great deal too far; because it would, in my opinion, make a war unavoidable. Though every one of the rights and privi-

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leges the honourable gentleman has been pleased to mention, be secured to us, either by the law of nations, or by solemn treaties, or by both; yet we all know, that they are now, and always have been, so far disputed, that the court of Spain has never yet acknowledged them, in explicit terms, notwithstanding its having been brought often to a very low pass. In treating between sovereign and independant powers, there are certain methods and forms to be observed, which are absolutely necessary for bringing any treaty of peace, commerce, or alliance, to a conclusion. A sovereign prince or state may often be prevailed on to acknowledge a right or privilege, or even to make some new concessions, by general words, which may be equivalent to, and as effectual as the most express and particular declaration; and yet that prince or state would perhaps engage in, or continue the most dangerous and destructive war, rather than make such an express and particular declaration. For this reason it is usual and frequent in all treaties, to make use of general words, in those cases where either of the contracting parties think they cannot in honour agree to acknowledge a right, or make a concession, in express and particular terms.

This, Sir, has often been the case, particularly between Spain and us. I believe no gentleman will doubt of our right to the island of Jamaica. I believe no British subject will say, that it is not absolutely surrendered and sufficiently secured to us, by the treaties now subsisting between the two crowns; and yet it is a right which the Spaniards still pretend to dispute. It is a right which they have never yet acknowledged in express and particular terms. Even in the year 1670, when they were suing for a peace, and for some new regulations in the West-Indies, and suing for it, Sir, in as humble a manner as ever a nation, not absolutely reduced, could submit to, they would not acknowledge our right to that island in express terms, nor did we think it necessary they should. They thought it was inconsistent with the honour of their crown, to make an express and particular surrender of that island; and we indulged them so far as to rest satisfied with that surrender and acknowledgment contained in the general words of that treaty, by which it is declared, "That we should hold and keep all the lands, countries, islands, colonies, and other places in the West-Indies, or in any part of America, which we then held and possessed." This we then thought a full and sufficient acknowledgment of our right to that island; and it seems our opinion was the same at the time of the treaty of Utrecht; a treaty, which, I am sure, some gentlemen that hear me will not pretend to find fault with; for though by that treaty we may in some measure be said to have given the kingdoms both of Old and New Spain to that family, which has since given us so much disturbance, yet we did not then desire by way of retribution an express and particular acknowledgment of our right to that island, nor of any other of our rights or privileges in America: the authors of that treaty, Sir, being of opinion, it seems, that the stipulations contained in other treaties sufficiently secured them.

From the practice of all nations therefore, and from our own practice in former treaties, we not only may, but sometimes ought to satisfy ourselves with general words and expressions, in cases where such general words or expressions may be as effectual, and may render what we aim at as secure and indisputable as if it had been declared or regulated in the most particular and explicit terms. But, Sir, if in the present case, this House should come to such resolutions as have been proposed, it would render it impossible for us afterwards to accept of, or propose, any such general acknowledgments or concessions. The resolutions presented by the hon. gentleman would cramp our ministers and negociators, who would regard them as rules from which they could not depart. In such a case, I believe no minister would take upon him to advise his Majesty to make a proposition to the court of Spain, relating to any of the matters now in dispute between us, that was less explicit or less particular than the resolution this House had come to upon that head; nor would he take upon him to advise his Majesty to approve of or ratify any one article in a treaty, unless it was as full and as particularly expressed as the resolution we had come to upon the subject matter of that article. Whether this would be an incroachment upon that prerogative of the crown, by which it has the sole power of making peace or war, I shall leave to others to determine; for my own part I must think, that it would not only be a taking from his Majesty the power of making peace, but that it would be taking from him the power of judging what sort of instructions would

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be most proper to be sent to his ambassadors or envoys at any foreign court, or to his plenipotentaries at any future congress. But this is not the only disadvantage such a method of proceeding would be attended with. In my opinion, it would not only make war unavoidable, but it would likewise make peace unattainable, till one or other of the parties engaged, were almost utterly destroyed; for though the Spaniards may probably in the way of negociation be brought to acknowledge and confirm all the rights and privileges held in dispute between them and us, in general terms, or perhaps in more particular and express terms than are to be found in any former treaty between the two nations, yet I am convinced, they will never agree to acknowledgments so very explicit and particular, as those contained in the propositions that have been now laid before us. At least I am convinced, they can never be prevailed on to do so, unless we should have the good luck, by a long and successful war, to bring them to as low an ebb, as ever any nation, not absolutely conquered, was brought to. We may with as much probability of success propose forcing them to sign a carte blanche, as to propose, either by fair or foul means, to compel them to make such particular concessions as are mentioned in the propositions now before us; and I do not think it is our interest to endeavour to bring that nation so low, even though we were certain of success, and that the other powers of Europe would sit still, and tamely behold our triumphs, without either jealousy or envy.

Now, Sir, as I think every one of the rights at present in dispute between Spain and us, may be as fully secured to us by general words in a future treaty, as by particular declarations and concessions: as I think we may, in consequence of such a treaty, continue to enjoy those rights, with as little disturbance as we now enjoy the island of Jamaica; therefore, if our ministers can obtain such a treaty, without putting the nation either to the hazard or expence of a war, I must think they will do their country a piece of good service; and consequently, I must think, it would be wrong in this House, to put it out of their power to negociate, or to advise his Majesty to approve of a treaty, that may attain all the good ends proposed by the hon. gentleman's resolution, and avoid all their inconveniences. I have, I have always shewed a very great regard for the merchants trading to and from our plantations: I have as great a regard for them, and I think them as useful a body of men as any in the kingdom: but we must consider, Sir, that we have a great number of merchants concerned, and a very considerable tradé, a most beneficial trade to this nation, in Spain and the Mediterranean. The former might, perhaps, be no great losers, they might even be gainers by a war; whereas the latter would certainly be undone; and if the war should be of any duration, some branches of our Spanish and Mediterranean trade might perhaps be irrecoverably lost. I hope I may be allowed to have some regard for our Spanish, Italian, and Turkey merchants. Upon their account I shall always be for avoiding a war with Spain, as long as possible, and shall never give my consent to any measure or resolution, that I think will breed such a quarrel between the two nations as must end in the destruction of one or other.

For this reason, Sir, I shall be against our coming to any particular and peremptory resolutions, with respect to any of the particular rights the Spaniards now pretend to contest; but I shall most readily agree to any motion that can be proposed, for shewing it to be our opinion, that our merchants have fully proved their losses, and that the depredations that have been committed are contrary to the law of nations, contrary to the treaties subsisting between the two crowns, in short, that they are every thing bad, and without the least pretence or colour of justice. This, I say, I shall most willingly agree to, because I think the petitioners have fully proved the allegations of their petition; I think they have fully proved, that the subjects of this kingdom have met with such treatment from the Spanish guarda costas and governors in America, as deserve the highest resentment; but still, I think, if proper satisfaction and full reparation can be obtained by peaceable means, we ought not to involve the nation in a war, from the event of which we have a great deal to fear; and the utmost we can hope for from the most uninterrupted success, is a proper satisfaction for past injuries, and a proper security against our meeting with any such hereafter, both which we are bound to think there are still hopes of obtaining by way of negociation; because if it had been otherwise, his Majesty would certainly have acquainted us with it, and would have desired us to provide for ob-

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taining by force, what he saw was not to be obtained by fair means.

As for the method, Sir, in which our negociations have been hitherto carried on, I do not think an enquiry into it can, upon the present occasion, come properly before us; but if it could, I believe it would be easy to shew, that they have been carried on in that manner, which was the most proper for producing an accommodation of all the differences subsisting between the two nations. I shall grant, that there are certain periods, and certain circumstances, which may make it the interest of a nation to be peremptory in every demand they make, and not to be at any great pains to shew the reasonableness of their demands, or to answer the objections that may be made to them; because, as a nation may sometimes have a conquest in view, and may think they have got a seasonable opportunity for accomplishing their design, it may be more for their interest to come to an open rupture, than to continue in peace upon the most equitable terms; but this can seldom or never be the case of this nation; I am sure it is not our case at present, nor has it never once been our case for above these twenty years past; and therefore, it would have been, and still would be, madness in us, to go to war with any of our neighbours, if there be any probability of obtaining justice in a peaceable manner.

From this consideration we may see, Sir, that it would be imprudent in us to be peremptory in the demands we make upon any of our neighbours; and for the same reason, we ought to be at some pains to explain the reasonableness of our demands, and to answer all the objections that may be made against them. But with respect to Spain, we ought, in my opinion, to have more patience, and to treat in a milder method with them, than with any other nation in Europe; not only because of the advantage we reap by our trade with that nation, but because his Catholic Majesty is, I am convinced, as much inclined to do justice, and to preserve peace, as any prince in Europe. Our not having obtained redress before this time, does not, I believe, proceed from any real intention in his Catholic Majesty to do this nation an injury, or to allow any of his subjects to injure us, but from the nature of the disputes between us, which depends upon facts, that must be fully enquired into, and certainly known, before it can be determined whether they are injurious or not; and as all those facts happen at a great distance, it is impossible to have a particular and distinct account of them in a short time, especially as it is very much the interest of the Spanish governors in America to misrepresent them. Considering therefore the justice and the uprightness of his Catholic Majesty's intentions, considering his friendship and good inclinations towards us, it would have been wrong in us to make peremptory demands at first; it would have been wrong in us not to answer every objection that was made against any of our demands: On the contrary, our own interest made it incumbent upon us to make a full and particular answer to every objection, in order to convince his Majesty of the justice of our demands or pretensions; because, from that conviction we had, I hope we still have, great reason to expect full satisfaction.

Having thus, Sir, laid my thoughts before you, upon the matter now under our consideration, and having given you my reasons for not approving of all the propositions, the hon. gentleman has told us he is about to make, I shall now beg leave to offer an Amendment to his motion, which is, That the first part of this motion should stand as it is in these words: "That it is the natural undoubted right of British subjects to sail with their ships on any part of the seas of America, to and from any part of his Majesty's dominions." So far I entirely agree with him; but in my opinion, all that he has proposed to follow after these words, ought to be left out; and instead thereof, I propose, that these words or resolutions ought to be inserted, "That the freedom of navigation and commerce, which the subjects of Great Britain have an undoubted right to by the law of nations, and which is not in the least restrained by virtue of any of the treaties subsisting between the crowns of Great Britain and Spain, has been greatly interrupted by the Spaniards, under pretences altogether groundless and unjust. That before and since the execution of the treaty of Seville, and the declaration made by the crown of Spain, pursuant thereunto, for the satisfaction and security of the commerce of Great Britain, many unjust seizures and captures have been made, and great depredations committed by the Spaniards, which have been attended with many instances of unheard-of cruelty and barbarity. That the frequent applications made to the court of Spain, for procuring justice and satisfac-

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tion to his Majesty's injured subjects, for bringing the offenders to condign punishment, and for preventing the like abuses for the future, have proved vain and ineffectual; and the several orders or cedulas, granted by the king of Spain, for restitution and reparation of great losses sustained, by the unlawful and unwarrantable seizures and captures made by the Spaniards, have been disobeyed by the Spanish governors, or totally evaded and eluded. And that these violences and depredations have been carried on to the great loss and damage of the subjects of Great Britain trading to America, and in direct violation of the treaties subsisting between the two crowns."

I do not know, Sir, if I shall have the good luck to meet with the approbation of this House; but what I have proposed will, in my opinion, be as strong a vindication of all the rights and privileges now in dispute between Spain and us, as if every one of them had been particularly mentioned: and, I think, it will be a sufficient testimony of its being the opinion of this House, that the facts set forth in the several Petitions now before us, have been fully proved; and that we look upon those facts to be such as are contrary to the law of nations, and to the treaties subsisting between the two crowns. It will likewise, I think, testify fully to the world, the resentment of this House, against the depredations that have been committed upon our merchants, and the cruelties that have been used towards our seamen; and that we are resolved not to suffer such practices to be continued in time to come, nor to allow those that are passed to go unpunished. This, I think, Sir, is the utmost length we can go at present; it is the utmost length this House ought to go, because it will answer all the ends we can propose by the most particular resolutions; and at the same time it will leave room for putting an end to all the differences between Spain and us, in an amicable manner, which, I have shewed, would very probably be rendered impossible, in case we should now come to such particular resolutions, as the hon. gentleman near me has been pleased to propose: Therefore I hope even the hon. gentleman himself will approve of the Amendment I have offered, to the end that we may appear to be unanimous in every resolution we may come to, upon an affair, which is of so great an importance to the trade and happiness of this nation, and to the tranquillity of Europe in general.

Mr. *Pulteney* stood up again, and said:

Sir; I find the debate upon the affair now before us, is like to take that turn, which I from the beginning imagined it would. After I had opened and explained the several rights and privileges of this nation, which ought, in my opinion, to be established by the resolutions of this House, I said, I knew it would not be directly asserted, that they were not worth the care of a British parliament, but such a thing I supposed might be insinuated; and now I find it is pretended, they are so little worth our care, that there is no occasion for establishing them particularly and distinctly, but that we may satisfy ourselves with general words and expressions, which, it is said, will be found as effectual, as if every one of these rights and privileges had been distinctly and particularly mentioned and explained.

After the experience we have had, for many years past, I am surprized, Sir, to find it even so much as insinuated, that general words or expressions, in any future treaty, can be supposed to be as effectual, as particular and distinct acknowledgments or declarations; and I am equally surprized to find it asserted, that this House may, upon this third application, content itself with coming to a general resolution. Sir, there is not one of the rights or privileges, which are asserted in the propositions I have now offered, but what is collected from the general words of former treaties, and have been confirmed to us over and again. These general words we have, by sad experience, often found to be ineffectual; and shall we again put our trust in that, which we find has so often deceived us? Shall we allow the freedom of our commerce, and the properties of our fellow-subjects, to depend any longer upon that, which has for many years subjected the former to continual interruptions, and has often made the latter a prey to our enemies?

Those rights, Sir, which depend upon the law of nations, are certainly confirmed by the general words of every treaty of peace and friendship, that can be made between two nations; and while neither pretends to contest, or to incroach upon, such rights, both may rest satisfied with such general confirmations: because a tacit acquiescence on one part is generally, and with reason, regarded as sufficient security for the other. But if either of the two begins to contest any one of those rights, or to usurp a power, that is incon-

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sistent with any of them, it then becomes necessary for the other nation to have that right particularly explained, and of new established, in the most distinct and explicit terms: they are bound in duty to mankind, as well as to themselves, to compel the usurping nation to pass from that power, which they have usurped, and to agree upon such terms as shall leave no room for setting up any such pretence in time to come. Of this nature are the two first rights, which I proposed to be established; I mean, "That of its being the right of British subjects, to sail with their ships on any part of the seas of America, to and from any part of his Majesty's dominions;" and, "That of its being the right of British subjects, to carry in their ships all sorts of goods, merchandize, or effects, from one part of his Majesty's dominions to any other part of his Majesty's dominions." These, Sir, are two rights, which depend upon the law of nations, and therefore, while neither of them was contested or incroached on by Spain, it was sufficient for us to have them confirmed by general words; but of late years, the Spanish guarda costas have been so arrogant, that they have usurped a power of entering in a forcible manner, and searching every British ship they meet with in the open seas of America; and they have likewise usurped a power of determining what sort of goods, or merchandize, may be carried in British ships, from one part of the British dominions to another. For this reason, it is now become absolutely necessary for us to compel them, either by fair or foul means, to pass from both these usurpations, and to establish and confirm to us those rights we are intitled to by the law of nations, not by general words, as formerly, but particularly and distinctly, and in the most express and explicit terms.

Then, Sir, as to those rights which may be peculiar to one nation, and which it may have acquired, by occupancy, purchase, conquest, or otherwise, the nation that has made any such acquisition, may at first rest satisfied with having their right acknowledged by other nations in general terms; but if any neighbouring nation should begin to contest their right, or should begin to interrupt and disturb them in the possession of a right they had lawfully acquired, it would then be incumbent upon them to have their right particularly, distinctly, and expressly acknowledged, by that nation at least, that had begun to contest their right, or disturb their possession. To apply this, Sir, to the two last rights I proposed to be established: it is well known, that we have long since acquired a right to make settlements in the province of Jucatan, and to cut logwood in the neighbouring bay of Campechey; and it is likewise well known, that we have long since acquired a right to gather salt in the island of Tortugas. Those rights we not only acquired by a lawful title at first, but they have since been oftentimes acknowledged and confirmed to us by the crown of Spain, in as express terms, as they can be, by general words or clauses, in any future treaty. While Spain did not pretend to controvert them, or to disturb us in the possession, it was sufficient to have them confirmed by general words, in those treaties that were made between the two nations; but of late years, Spain has not only begun to controvert these rights, but has actually disturbed us in the possession, by seizing our ships, and murdering or maltreating our seamen, for no other reason, but because they were found in the exercise of those rights, which belonged to them as subjects of the crown of Great Britain. We cannot therefore now satisfy ourselves with having such rights acknowledged in general terms: if we ever come to any treaty with that nation, we ought to have both of them particularly and expressly acknowledged. This, I say, Sir, we ought to have; this we will have, if we treat upon an equal footing, and shew a due regard to the honour and trade of our native country.

Every one must grant, Sir, that we have as good right to cut logwood in the Bay of Campechey, and gather salt on the island of Tortugas, as we have to the island of Jamaica: the former has been as often confirmed as the latter, by the general words of the treaties subsisting between us and Spain. But the difference at present is, that the former has been of late not only contested but invaded, whereas our right to Jamaica has not of late been openly contested, nor our possession disturbed. I am glad it has not; for I am convinced, that those who are so fond of peace, as for its sake to give up our right to cut logwood in the Bay of Campechey, and gather salt in the island of Tortugas, would likewise for the same reason have given up the island of Jamaica, if the Spaniards had revived their pretensions to that island, and had insisted upon its

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being restored, as one of the preliminaries.

Thus, Sir, I have shewn that, if we judge by experience, we can put no farther trust in general words or expressions; and I have also shewn that, from the nature of things, we cannot now rest satisfied with general acknowledgments or declarations. If we have any regard for the honour or trade of this nation, if we have any regard for the lives, the liberties, or the properties of our fellow-subjects, we must insist that, in any future treaty to be made between the two nations every one of the rights or privileges now in dispute, shall be particularly and distinctly acknowledged: and if this be the case, what harm can there be in our coming to a distinct and separate resolution with respect to every one of the rights I have mentioned? But this is not all, Sir: if this had been the first time any application had been made to us, against the insults and depredations of the Spaniards; if this had been the first time we had found it necessary to come to any resolution upon that head; there would be some pretence for saying, we ought to rest satisfied with a general resolution; it might perhaps be supposed that such a general resolution as the honourable gentleman near me has been pleased to propose, would be sufficient for procuring a remedy for those evils, our injured countrymen complain of; but we have twice already come to such a general resolution; we have twice already found that such a general resolution has proved altogether ineffectual; and therefore we are now both in honour and duty bound to think of some other method, for giving relief to those who, we find, have so justly complained. Even the resolutions I have proposed, may prove ineffectual; I am afraid they will, even though they were much more express and strong than they are, unless we alter our conduct; but surely, the least we can do, upon this third application is, to endeavour to vindicate and establish, by the resolutions of this House, those rights, which the Spaniards have so long dared to dispute with us, and which have so long given them a handle for plundering our merchants, and cruelly using our seamen.

These rights, it is true, Sir, are not disputed by any of our own subjects; though I do not know, but there may be some, who, for their own selfish ends, would be glad to give every one of them up. I shall likewise grant, that we cannot pretend to bind or foreclose foreigners, at least in a legal manner, by any of our determinations or resolutions; but if either of these were a good reason for our not coming to the resolution I have proposed, there would be no occasion for our coming to any resolution at all, relating to the affair now before us. Is there any subject in the British dominions, that says, dares say, that our merchants have not been plundered, and our seamen maltreated, by the Spaniards in America? Does any subject of Great Britain say that a proper satisfaction has yet been obtained for the insults and injuries, that have been put upon us? What occasion can we then have, according to the honourable gentleman's way of reasoning, for coming to any resolutions, for ascertaining the truth of facts which none of our own subjects doubt of? For, with regard to foreigners, we can as little pretend to bind or foreclose them, with respect to the truth of facts, as we can pretend to bind or foreclose them with respect to the justice or validity of any right we pretend to. Therefore, if this argument were of any weight, there would be as little reason for our coming to the resolution the honourable gentleman has been pleased to propose, as for our coming to any one of the resolutions I have mentioned.

But in the case now before us, Sir, we are not to come to resolutions with a design to determine absolutely any matter of right, or to foreclose either our own countrymen or foreigners. The design of our resolutions ought to be, to shew both to our own countrymen and foreigners, that we are resolved to vindicate and assert, to the last drop of our blood, those rights, which we think belong to us; and that both our own countrymen and foreigners may know, what we look upon as the undoubted rights and privileges of the nation, those, at least, which are now contested, ought to be particularly and expressly established by the resolutions we are to come to upon this occasion. This, Sir, will have a good effect upon foreigners, as well as our own countrymen. If there be any among the latter, who think they may sacrifice the honour and interest of the nation, to their own ease and security, by giving up all or any of the rights now in dispute between Spain and us, or by allowing them to be any longer incroached on or violated, they will from thence see, that they must expect the ut-

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most resentment and indignation of this House; and if any foreigners, particularly the Spaniards, have been, by our late pacific conduct, led into a belief, that we dare not vindicate our known rights and privileges, such resolutions will shew them, that, however pacific, or rather pusillanimous, some people amongst us may be, however much afraid some may be of a war, the nation itself is neither become pusillanimous, nor is the Parliament of Great Britain afraid of a war, when it becomes necessary for preserving the trade, or vindicating the honour of the nation. This will make the Court of Spain seriously consider the consequences of an open rupture with this nation; and if they do, I am sure they will give us full satisfaction and security, rather than come to an open rupture, unless they have got a greater advantage from our late negociations and conduct, than is yet generally seen through.

I shall not pretend, Sir, to know, or even to guess at, the present system of politics in Europe: it has been of late so entirely turned topsy-turvy, and so little of our foreign politics have been communicated to this House, that no gentleman can say he has any knowledge of them, if he knows no more than what he has learned by being a member of this House; but this I may venture to say, that if we consider and compare the two kingdoms of Great Britain and Spain only, and the respective power of each, even as it stands at present, we can have no reason to be afraid of a war with Spain, nor can they have reason to expect any triumphs over us. Indeed, if the political affairs of Europe have been negociated into such a system, that Spain is now provided with powerful allies, ready to support them in all their pretensions upon us, and this nation not provided with any one ally, whose assistance we can depend on, even in defending our just rights and privileges, we may have some reason for continuing to submit tamely to the most cruel indignities, rather than come to an open rupture; but if this be our unfortunate case, which God forbid! I wish some of those gentlemen, who know something of the present system of politics in Europe, would rise up and make us acquainted with our unlucky circumstances, before we proceed to do any thing, that may render them worse. In such a case, I shall admit, we ought to be extremely cautious of doing any thing, that may tend towards involving the nation in a war; but if this be our case, if we cannot extricate the nation out of those difficulties it labours under at present, I am sure we ought to deliver it from the counsellors who have brought it into those difficulties; and for that purpose, we ought to enter into an enquiry very different from that we have been upon, and we ought to come to resolutions very different from any that have been proposed.

But I have the pleasure to think, Sir, that this is far from being our case at present; because, if the nation were in such a melancholy situation, it would be absolutely necessary to reveal it to this House, upon the present occasion; and as several gentlemen amongst us, must be acquainted with it, I am persuaded they have a greater regard for their native country, than to conceal what is now so necessary for us to know. I am convinced, some of them would have laid our circumstances fully before us, whatever might have been the consequences, either with respect to themselves or friends. I cannot therefore suggest to myself the least shadow of reason, why we ought to be so much afraid of a war, as to accept of, or agree to, any future treaty, that does not in the most effectual manner secure to us the possession of those rights, which have been lately contested. We have, 'tis true, been told, that Spain may think it inconsistent with the honour of their crown, to make any express and particular declarations. Sir, this honour can at best be said to be but an imaginary one: but suppose it otherwise, they ought to have considered this, before they began to contest any of those points with us; for their very starting that dispute makes it inconsistent with the honour of the crown of Great Britain, to accept of any general acknowledgments for the future, at least with respect to those rights they have dared to contest; and I hope this House will never hesitate upon the alternative, whether the imaginary honour of the crown of Spain, or the real honour of the crown of Britain, should be supported: nor will this nation, I hope, ever be in such circumstances, as to be under a necessity of wounding its own honour, in the most sensible part, for the sake of avoiding a war with Spain, or with any other power in Europe.

For this reason, Sir, we have no occasion to avoid coming to particular resolutions, for fear of tying up the hands of our negociators. On the contrary, it is

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one of the strongest arguments for our coming to a particular resolution, with respect to every right now in dispute between Spain and us; for of late years, our negociators seem to have minded the forms and ceremonies of treating between sovereign powers, more than the substantials; and therefore, if, in the present case, no particular directions be given them by this House, I am afraid they will accept of such general acknowledgments or declarations, as will make those rights more disputable and precarious than ever they were heretofore. I am far from thinking, that our coming to particular resolutions, or our obliging those who may be hereafter employed to negociate for us, to insist upon having those rights now in dispute particularly acknowledged and confirmed, will make a war unavoidable; because, I believe, if the court of Spain be once fully convinced, that nothing less will satisfy us, they will agree to such particular acknowledgments, rather than come to an open rupture: but they will certainly wave and put off agreeing to any such, as long as they think we will bear with it; because, in the mean time, they will every now and then be getting something by the plunder of our merchants; and as our ministers have, I think, already allowed them to dally with us too long upon this head, I hope this House will now interpose, in order not only to convince the Spaniards, that nothing will satisfy this nation, but a particular acknowledgment of every right they have taken upon them to dispute, and to convince the ministry that a British Parliament are better negociators than themselves.

But suppose, Sir, that the Spaniards, by presuming upon our weakness, timidity, or bad conduct, should absolutely refuse to come to any particular settlements with us; will any man say, that for the sake of avoiding a war, we ought to accept of a treaty or convention, from which we can expect no satisfaction for past injuries, nor security against future? The treaty of Seville may convince every man, that we can expect nothing from general acknowledgments, or general promises: from that treaty, we were told, I believe I have an hon. gentleman now in my eye who affirmed it in this House, that the nation was to reap great advantages; but I know of no man in the kingdom, that has as yet found any advantages from that treaty, unless it be the commissaries and their attendants; and if our ministers should now procure, or accept of, such another treaty, as that of Seville, I hope they will pardon me if I think that they will do a notable injury to their country, instead of doing it a piece of good service. I have as great a regard as the hon. gentleman can have for our Spanish, Italian, and Turkey merchants; but our suffering our America trade to be ruined, is not the way to protect them. I am afraid, Sir, that, if we shall lose our American trade, the balance of trade to all other countries will be very much against us; I wish it is not so now.

Therefore, for the sake of our other merchants trading to the Mediterranean and Levant, I think we ought to insist strenuously upon the protection of our merchants, and the freedom of our navigation, in all parts of the world; for if we allow our merchants to be plundered, and our navigation interrupted in any one part of the world, our fate will soon come to be the same in every other part of the world; and even in the Mediterranean, as well as the American seas, the Spaniards have of late begun to make more free with the British flag, than ever they, or any other nation, durst do in times past. Let no gentleman therefore pretend, that his regard for our merchants trading to one part of the world, ought to prevail with him to allow our merchants trading to any other part of the world, to be plundered and abused.

Sir, it is to our trade and navigation we owe the whole of our riches, power and splendour. Before we had any trade or navigation, this island was little better than a desart; and if we should allow both to be destroyed, it will be soon reduced to its former condition. The extensive trade and navigation we now have, is not so much owing to our situation, which has always been the same, as to the great care we have taken in these latter ages, that our merchants and seamen should meet with safety and respect in all parts of the world. Our great king Edward 3, shewed such a regard for our trade and navigation, that upon a complaint from our merchants, of their having been plundered by the Spanish pirates or guarda costas of those days, he immediately fitted out a fleet, and went in person to revenge the depredations that had been committed upon his subjects; by which he restored the freedom of our commerce, and added a naval triumph to the many triumphs he had before obtained at land. The protection of trade and na-

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vigation has always been one of the chief concerns of all great kings and all wise nations. Even the Romans, who could never be said to be a trading people, showed a great regard for it, as appears from the reproof Cicero gave them in his days, for neglecting to suppress the pirates, and to assert the honour of their flag.

His words, Sir, upon that occasion, are so applicable to this nation at present, that I shall beg leave to repeat them. In advising his countrymen to support the cause of their injured merchants, in his oration for the Manilian law, among many other beautiful expressions, he makes use of the following: 'Majores vestri sæpe, mercatoribus, ac naviculatoribus injuriosius 'tractatis, bella gesserunt. Quare videte, 'num dubitandum vobis sit, omni studio 'ad id bellum incumbere, in quo gloria 'nominis vestri, salus sociorum, vectigalia maxima, fortunæ plurimorum civium, 'cum republica defenduntur; videte ne, ut 'illius pulcherrimum fuit, tantam vobis 'imperii gloriam relinquere, sic vobis turpissimum sit, illud, quod accepistis, tueri 'et conservare non posse.'

These are words, Sir, which no true Englishman will ever forget; and I am sorry to say, that I think there is too much occasion for enforcing the remembrance of them at present. We have been negociating and treating with Spain for these twenty years, about nothing that I know of, unless it was about reparation and security for our merchants; and yet, during that whole time, they have been plundering and abusing our merchants, almost without intermission. If a nation's being subject to daily insults and injuries is not a circumstance that ought to make it peremptory in its demands, I am sure no circumstance can. This has been our case for many years, and will be our case, till Spain be made to acknowledge, in the most express and particular terms, every one of those rights they now pretend to dispute. Ought not this to make us peremptory in our demands? ought not it to have made us peremptory long ago? Sir, if we had peremptorily insisted upon full satisfaction and reparation, for the very first injury that was offered us, I may venture to affirm, we should never have been exposed to a second. Nay, if we consider that our insults and injuries were inflicted without any ceremony, we ought to have used as little ceremony in the revenging them; and to have taken satisfaction, without being at any great pains to demand it. But I hope, Sir, that is not even yet too late.

This was what Oliver Cromwell did in a like case that happened during his government, and in a case where a more powerful nation was concerned than ever Spain could pretend to. In the histories of his time we are told, that an English merchant ship was taken in the chops of the channel, carried into St. Maloes, and there confiscated upon some groundless pretence. As soon as the master of the ship, who, we are told, was an honest Quaker, got home, he presented a petition to the Protector in council, setting forth his case, and praying for redress. Upon hearing the petition, the Protector told his council, he would take that affair upon himself, and ordered the man to attend him next morning. He examined him strictly as to all the circumstances of his case, and finding by his answers that he was a plain, honest man, and that he had been concerned in no unlawful trade, he asked him, If he could go to Paris with a letter? the man answered, he could. Well then, says the Protector, prepare for your journey, and come to me to-morrow morning. Next morning he gave him a letter to cardinal Mazarine, and told him he must stay but three days for an answer. The answer I mean, Sir, says he, is the full value of what you might have made of your ship and cargo; and tell the cardinal, that if it is not paid you in three days, you have express orders from me to return home. The honest, blunt Quaker, we may suppose, followed his instructions to a tittle; but the cardinal, according to the manner of ministers when they are any way pressed, began to shuffle; therefore the Quaker returned, as he was bid. As soon as the Protector saw him, he asked, Well, friend, have you got your money? and upon the man's answering he had not, the Protector told him, Then leave your direction with my secretary, and you shall soon hear from me. Upon this occasion, that great man did not stay to negociate, or to explain, by long tedious memorials, the reasonableness of his demand. No, Sir, though there was a French minister residing here, he did not so much as acquaint him with the story, but immediately sent a man of war or two to the channel, with orders to seize every French ship they could meet with. Accordingly, they returned in a few days with two or three French prizes, which the Protector ordered to be immediately sold, and out of

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the produce he paid the Quaker what he demanded for the ship and cargo: then he sent for the French minister, gave him an account of what had happened, and told him there was a balance, which if he pleased, should be paid in to him, to the end that he might deliver it to those of his countrymen, who were the owners of the French ships, that had been so taken and sold.

This, Sir, was Oliver Cromwell's manner of negociating; this was the method he took for obtaining reparation: and what was the consequence? it produced no war between the two nations: no, Sir, it made the French government terribly afraid of giving him the least offence; and while he lived, they took special care that no injury should be done to any subjects of Great Britain. This shews, that Oliver Cromwell had a genius and a capacity for government; and however unjustly he acquired his power, it is certain that this nation was as much respected abroad, and flourished as much at home, under his government, as it ever did under any government: but when a nation has the misfortune to have a man set at the head of her affairs, who knows nothing of foreign, who knows nothing but the little low detail of offices, and has neither capacity or knowledge beyond what can qualify him for being a clerk in the treasury, or some other public office, it is then no wonder to see that nation despised and insulted abroad, and dissatisfied, mutinous and seditious at home.

I wish, Sir, those who have now the direction of our negociations abroad, would assume, if possible, a little of the spirit and courage of Oliver Cromwell. He had as powerful a party to struggle with at home, as ever any minister had; but he never allowed the danger he was in from that party, to deter him from vindicating, upon all occasions, the honour and interest of his country abroad. He had too much good sense to manage in such a pusillanimous manner; for he knew that such management would have increased the party against him, and would have made them more daring, as well as more numerous. If our present negociators, or those who have the direction of our negociations, take example by him; I am sure they will not accept of any general acknowledgments or promises; and therefore there can be no danger in our agreeing to the particular resolutions I have proposed. But I am afraid, Sir, they will not. I am afraid they will, for the sake of patching up a peace, accept of such terms as will rather be a new affront to the nation, than an atonement for the insults and injuries we have suffered. From the resolution the hon. gentleman has been pleased to propose (for I deny it to be an Amendment to mine, unless we judge of resolutions or motions, as we judge of men of war,) we may see what he thinks will be a sufficient acknowledgment of the rights now in dispute between Spain and us: he has reserved only what I may call one beam, or one plank, of what I proposed; he has reserved only the first two or three sentences, and this, he has told us, will, in his opinion, be as strong a vindication of all the rights and privileges, now in dispute between Spain and us, as if every one of them had been particularly mentioned. I confess, Sir, the words he proposes to reserve, may be some sort of general acknowledgment of the first two rights I proposed to be established, by the resolutions of this House; but how they can be called an acknowledgment of the last two, I cannot comprehend. The words are, "That it is the natural and undoubted right of British subjects to sail with their ships, on any part of the seas of America, to and from any part of his Majesty's dominions." For God's sake, Sir, how is it possible to imagine, that these words can any way relate to our right of cutting logwood in the bay of Campechey, or to our right of gathering salt in the island of Tortugas? It is impossible to imagine any such thing; and therefore, if we agree to what he has offered, it may be supposed, that we have left our negociators at liberty, to make a sacrifice of those two valuable rights to their own ease and security.

But with respect, Sir, even to the first two rights, which I proposed to be particularly established, what security can we have from such a general acknowledgment, more than we have at present? Suppose these words, which are, by the hon. gentleman's proposition, to be the only words that relate to any of our rights in America or elsewhere; I say, Sir, suppose these words dressed up in the form of an article in a future treaty, they would then stand thus: "His Catholic Majesty acknowledges and declares, that it is the natural and undoubted right of the British subjects, to sail with their ships on any part of the seas of America, to and from any part of his Britannic Majesty's dominions." Now let us compare this new se-

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curity for the freedom of our commerce, with that which we have already, by treaties now subsisting between the two crowns. By the 15th Article of the Treaty of 1670, it is expressly declared, "That the freedom of commerce shall not be interrupted by no manner of means, nor under any pretence of pre-eminence, right, or signiory, which either party claims in the West Indies, or in any part of America." And by the 6th Article of the Treaty of Utrecht, it is expressly declared, "That as the subjects of their Majesties are to enjoy on both sides an entire, secure, and unmolested use and liberty of navigation and commerce, as long as the peace and friendship, entered into by their Majesties, and their crowns, shall continue; so likewise their Majesties have provided, that the said subjects shall not be deprived of that security, for any little difference which may possibly arise; but that they shall, on the contrary, enjoy all the benefits of peace, until war be declared between the two crowns." From this comparison, can any man say, that this new security, which is all the hon. gentleman seems to propose for us, will be any way more extensive, or more explicit, or more effectual, than the security we have already? Can this House then propose, that the nation should now content itself with a renewal only of that security, which by dear-bought experience we have found to be no security at all.

Sir, I insist upon it, that such a general acknowledgment or declaration, would be so far from being a security, that it would be nothing like a determination of the principal affair now in dispute between Spain and us. His Catholic Majesty never pretended, that British subjects have not a right to sail with their ships on any part of the open seas of America; nor do we pretend, that we have a right to sail to and traffic in the ports, havens, or places possessed by the Spaniards in America, any farther than is allowed us by the Assiento contract. But the king of Spain pretends, that, in order to discover whether any of our ships have been sailing to and trafficking with his subjects in America, he has a right to enter and search our ships upon the open seas; and that, if upon such a search it be found, that they have any of those goods on board, which he says can be found no where but in his dominions in that part of the world, it is a full proof that they have been carrying on an illicit trade with his subjects, and that therefore he has a right to seize and confiscate the ship and cargo. On the contrary, we contend, and with justice contend, that he has no right to search any British ship on the open seas, either in America or elsewhere; but that in all cases, and in all seas, if a Spanish ship of war, or guarda costa, meets a British ship at sea, the Spanish ship is by the 14th Article of the Treaty of 1667, "not to come within cannon shot of the British ship, but shall send their long boat or pinnace to the British ship, with only two or three men on board, to whom the master or owner shall shew his passports and sea-letters, whereby not only the ship's lading, but the place to which she belongs, and as well master and owner's name, as the name of the ship, may appear; by which means the quality of the ship, and her master or owner will be sufficiently known, as also the commodities she carries, whether they be contraband or not, to the which passports and sea-letters intire faith and credit shall be given."

And supposing, Sir, it should appear by the British ship's passports and sea-letters, that she is sailing to or from any Spanish port, and has prohibited goods on board; by the 15th Article of the same Treaty, "Those prohibited goods only are to be seized or confiscated, and not the other goods; neither shall the delinquent incur any other punishment, except he carry out from the dominions of Spain any gold or silver, wrought or unwrought." Or, supposing it should appear by the British ship's passports and sea-letters, that she is bound to a port belonging to some power, then at war with the king of Spain, and has contraband goods; by the 23d Article of the same Treaty, "Such goods only shall be taken out and confiscated; but for this reason the ship, and the other free and allowed commodities, which shall be found therein, shall in no wise be either seized or confiscated."

I must observe, Sir, that this treaty of 1667, was a general treaty, which comprehended America as well as every other part of the world; therefore the methods thereby established, for visiting our ships at sea, ought to be observed in the American seas, as well as the Mediterranean, Bay of Biscay, or any other open sea; and I must likewise observe, that though by this treaty we got no permission to trade with the Spanish plantations in America or the West Indies, yet we did not, by that treaty, lay ourselves under any express obligation not to trade with

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them: We did not lay ourselves under any such obligation, till the year 1670; so that the Spaniards have no right either to search or seize our ships, but what they have by the law of nations, or what they got by the treaty of 1672. By the law of nations they have no right to search or seize any ship, unless she be found within some part of their dominions; therefore they have no right to search or seize any of our ships, upon any part of the open seas of America. And by the treaty of 1670, we obliged ourselves only not to navigate or traffic in the havens and places, that are in the possession of the Catholic king in the West Indies; therefore, as the open seas of America are not, as we can never allow them, or any part of them, to be in his possession, he can have no right, by that treaty, to search, much less to seize, any of our ships, that are sailing upon the open seas of America.

On the contrary, Sir, by the articles of the treaty of 1667, the Spanish men of war and guarda costas are expressly, and very particularly, obliged not to come within cannon shot of any British ship sailing upon the open seas; and if they have a mind to visit or see the passports or sea letters of any such ship, they are expressly obliged not to send above two or three men on board for that purpose; and to those passports and sea letters they are expressly obliged to give entire faith and credit; which last words cut off every pretence, they can have, for making a search; and by the very nature of the thing, they can seize no goods, even of those that are mentioned in the bills of lading, unless the ship be bound to or from some port of Spain or to some port belonging to the king of Spain's declared enemies; because she can have no goods on board that can, by the Spaniards, be called prohibited, unless she be bound to or from some of their ports; and she can have no contraband goods on board, unless she be bound to a port possessed by their enemies. Nay, even in these two cases, they cannot pretend to make prize of ships and cargo: they can seize and confiscate only those goods, which are prohibited or contraband.

From what I have said, Sir, the injustice of the king of Spain's pretensions must evidently appear. It must appear evident, that he has no right to search any of our ships sailing upon the open seas of America; and much less has he a right to limit and prescribe, what sort of goods they shall carry from one part of the British dominions to another; or to determine, that their carrying any one sort of goods, shall be a proof of their having been carrying on an illicit trade with his subjects in America. These are usurpations lately set up in direct opposition to the law of nations, and notwithstanding the general acknowledgment of a free commerce and navigation, so often and so solemnly repeated, in the treaties now subsisting between us; and these, Sir, are usurpations which they have set up, under the false and frivolous pretence, that such practices are not inconsistent with the freedom of commerce or navigation, and therefore not contrary to the general acknowledgments and declarations contained in those treaties. Does not this shew, Sir, that a general acknowledgment of our right to sail on any part of the seas of America, will not determine the question in dispute between us? Does not it shew that such a general acknowledgment will leave us as much liable to insults and depredations, after it is obtained, as we have been for these twenty years past? Therefore, we ought, we must insist upon having these usurpations given up and passed from, in the most particular, express, and explicit terms; otherwise we must give up our trade and our plantations, not only in the islands, but also upon the continent of America; and if we are so cowardly as to give up such a valuable branch of our commerce, I will foretell, that we must soon give up, not only our Turkey, Italian, and Spanish trade, but also our trade to Portugal and the coasts of Africa; for the same pretences may be set up for searching and seizing our ships in the Mediterranean, Bay of Biscay, and African Seas, as are now set up for searching our ships in the open seas of America: nay, I am convinced, Spain or some other of our neighbours, will soon set up the same pretences for ruining our trade in the East Indies.

I have been the more particular, Sir, upon this subject, and have taken up more of your time, than I would otherwise have done, because I have reason to suspect, that the honourable gentleman who made you the second proposition, which I find he has a mind should pass as an amendment to mine, in order to avoid putting the question upon what I took the liberty to propose; I say, Sir, I have reason to suspect, that he may have some hand in di-

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recting our future negociations with Spain; and as, by what he has been pleased to propose, he seems not to be so zealous in the defence of the rights and privileges of this nation, as, I think, he ought, I hope this House will come to the resolutions I have proposed, in order to prevent, as much as possible, the effect his counsels may have upon our future negociations with the court of Spain; for if we are so good-natured, and so pacific, as to continue our negociations yet a while longer, I believe, most gentlemen that hear me will admit, that they ought to be carried on with more vigour and in a more peremptory manner than they have been for many years past; and that whatever may be the result of this day's debate, our negociators, at least, ought to insist upon particular explanations and express declarations, with respect to every matter of right now in dispute: but more especially with respect to that right the Spaniards have lately usurped, of searching our ships upon the open seas.

For this reason, Sir, among many others, if the question is to be put upon the amendment proposed, I hope gentlemen will disagree to it, in order that we may come at putting the question upon the several resolutions I have taken the liberty to lay before you.

Sir *Robert Walpole* likewise stood up again, and spoke as follows:

Sir; I wish that gentlemen, in their debating upon the affair now before us, would take care to keep to the point really in dispute; for by so doing, I am sure they would very much shorten the debate. In what I took the liberty to trouble you with upon this subject, I am certain, I did not drop the least word, that could intimate so much as a doubt about any of the rights or privileges, which the court of Spain now pretends to contest with us. So far otherwise, I expressly declared that I agreed with every thing the honourable gentleman had said in support of them; and I am still convinced, that no gentleman, either within or without doors, will so much as insinuate, that our title to any one of those rights and privileges, is in the least doubtful; therefore I must think, that whatever the honourable gentleman has since been pleased to add, whatever may hereafter be said, in support of any of those rights or privileges, or for explaining or demonstrating the justice of our title to all, or any one of them, is a sort of fighting with the wind: it is arguing without an opponent; and consequently, I must beg leave to say, that I think it is taking up a great deal of your time to no purpose.

The only question in dispute among us, Sir, is, Whether we ought now to come to a particular resolution, upon every particular right or privilege, which the court of Spain pretends to contest with us; or, if we ought only to come to one general resolution, which may virtually include them all, and so leave it intirely to his Majesty, and those employed by him, to obtain such farther explanations, and such particular acknowledgments, as the present or future circumstances of affairs may make proper for him to insist on? This, Sir, is the only point now in dispute amongst us; and therefore, without taking notice of what the honourable gentleman has now been pleased to add to what he formerly said, for explaining and enforcing the justice of our title to those rights and privileges, which the Spaniards have lately taken upon them to contest, I shall only add a few words for enforcing what I have said before, in favour of the general resolution I proposed, and then I shall endeavour to answer the few arguments that have been made use of, for shewing that we ought to come to particular resolutions upon every particular right or privilege, now contested by Spain.

The hon. gentleman has told us, that not only our negociators ought to insist positively and peremptorily upon particular explanations, and express acknowledgments, with respect to every particular right or privilege lately contested, but that this House ought now to come to such resolutions as may make it absolutely necessary for them to insist upon such. I wish, Sir, with all my heart, I believe every honest subject of Great Britain wishes, that it were in our power to give laws to every potentate in Europe, and to prescribe to them how they should behave, in every case, not only to us, but to one another. But this is at present impossible; and even though we had a probability of success in any such attempt, I do not think it would be prudent in us to attempt making use of our power in a manner too positive and haughty, lest by so doing we should provoke the other powers of Europe to unite together, in order to reduce the power of this nation, and to make us submit to such laws as they might be pleased to prescribe to us, in-

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stead of our prescribing to all or any of them. For this reason, Sir, in all our negociations, we must have a regard to policy, as well as to what we think justice, and we must take care, in the demands we make upon any one of our neighbours, not to insist so positively and so haughtily, even upon those terms we may think reasonable, as to excite the jealousy of the rest. In contests between nations, it is the same as in contests between private men: each party thinks himself right; and as there is no judge or judicature, that has a right to determine finally in those contests, that happen between two independent nations, both ought to consult the sentiments of their neighbours, and both ought to limit demands, or extend their compliances, according to that opinion, which they find prevails generally among their most impartial neighbours. This may often be a reason for a nation's accepting of general declarations, in cases where particular explanations, and express concessions, would not only be just, but much more to their honour and advantage.

I shall, I believe, Sir, every gentleman in this House will, readily acknowledge the justice and reasonableness of every one of our demands upon Spain; but whatever opinion we may have about the matters now in dispute between us, it is certain the court of Spain does not as yet think our demands either reasonable or just; I am persuaded his Catholic Majesty, at least, does not think so, otherwise his natural propensity to justice, which is so well known, would certainly have induced him to comply with our demands. Even the other courts of Europe cannot perhaps be prevailed on to think of them in the same way we do; and if we should too peremptorily insist upon our present demands against Spain, and should resolve to compel them to agree to such terms as we had a mind to propose, and to acknowledge our rights and privileges in such a manner, and by such words and expressions, as we should think fit to prescribe, it might stir up some of the other powers of Europe to join with Spain, who would otherwise have remained neutral; and it might prevent our best friends and most natural allies from giving us their assistance, in a war which we had unnecessarily and imprudently brought upon ourselves.

What the present system of politics in Europe may be, I shall not pretend, Sir, to determine: I do not believe any gentleman in this House can. It is a system that depends upon the humour of so many courts, and upon so many accidents at every one of these courts, that it must be altering and changing every day. Therefore it is impossible to communicate it to this House; nor can we, if it were now communicated, in common prudence, allow it to have any great influence on our resolutions. It may be at present in such a state, as might make it prudent in us to lay hold of the opportunity, in order to have all matters in dispute between Spain and us settled and determined, in the most particular and explicit manner; and yet, before we could possibly take advantage of the opportunity, which the then system of politics had furnished us with, it might be so much changed to our disadvantage, as would make it prudent in us to lower our crest, and accept of any expedient, for putting off our being obliged to come to an open rupture with Spain, at such an unseasonable juncture.

This, Sir, shews the wisdom and the excellence of our constitution, which has trusted intirely to the crown, the power of making peace and war; and at the same time it shews how imprudent it would be in us to encroach upon that prerogative, by laying the crown under a necessity to make war, however unseasonable, however perverse the conjuncture may be. All matters relating to peace and war, besides the secrecy that is requisite, are liable to so many changes, and to such sudden and unlooked for alterations, that nothing but a single person, or an assembly that is continually subsisting, can be exactly informed of every incident that occurs, or can have such a thorough knowledge of foreign affairs, as to be able to foresee the lucky or the cross incidents that may probably occur, so as to take an immediate advantage of the former, or so as to take such measures as may prevent the dangerous consequences of the latter. Therefore, while our happy constitution remains entire, while the parliament meets but once a year, and does not continue assembled above three or four months in the twelve, it is impossible for either House of Parliament to intermeddle, much less to prescribe to the crown, in any affairs relating to peace or war, without exposing the nation to imminent danger.

I shall grant, Sir, that after the rights of a nation have been contested and invaded, or after an unjust claim has been actually set up, there is a greater occasion for particular explanations, and express conces-

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sions, than there was before; but nations must chuse proper times and seasons for insisting even upon that, which they are more justly intitled to; and whether the present be a proper time for our insisting, in a peremptory manner, upon the utmost we are intitled to, with respect to Spain, is a consideration which this House cannot pretend to be a competent judge of; because no man can judge in such a case, without knowing thoroughly the circumstances and complexions of all the courts in Europe, which is a knowledge no man can pretend to, without having previously been made fully acquainted with all the secrets of the cabinet; and I am sure, no man who wishes well to his country, would desire, or can expect, that his Majesty should communicate all the secrets of his cabinet to such a numerous assembly. Nay, if he should, it would not enable us to determine what might be proper to be done a month hence; for that very communication might probably occasion a thorough change in the face of affairs all over Europe; which change might make those measures destructive to the nation, which at present may be justly thought the most salutary and prudent. In my opinion, therefore, the best thing we can do upon the present occasion, is, to come to some general resolution, in order to shew the resentment of the nation against the insults and injuries we have met with, and to leave it entirely to his Majesty's care and wisdom, to get such satisfaction, and to get our particular rights as fully acknowledged as time and future circumstances will permit. I hope, Sir, that such an opportunity will soon present; but if it should not, and if the Spaniards should prove more obstinate than we have reason to expect, his Majesty will, no doubt, take the first proper opportunity for compelling them to do, what in justice they ought. Our coming to a general resolution can no way oblige his Majesty to accept of general acknowledgments, if he finds that he can, either by fair or foul means, obtain particular and express concessions; but our coming to particular and explicit resolutions, will render it impossible for his Majesty, either to propose or accept of general acknowledgments, even though he should then be convinced, that the nation could not come to an immediate rupture, with any prospect of advantage; so that our coming to a general resolution cannot possibly be attended with any bad consequence, whereas our coming to particular resolutions, binds up his Majesty's hands, and may force the nation into a war at a very unseasonable juncture, which of course may be attended with the most fatal consequences.

I shall likewise admit, Sir, that the first part of the resolution offered by the hon. gentleman, which I propose should stand part of the resolution of this House, does not comprehend the rights or privileges we have to cut logwood in the Bay of Campechey, and to gather salt in the island of Tortugas; but as our claim to both has never yet been prescribed, the disturbance we have met with in the exercise of these two rights, will, I think, be sufficiently comprehended under the following words, in the resolution or Amendment I have proposed, by which we are to declare, "That before and since the execution of the treaty of Seville, and the declaration made by the Crown of Spain, pursuant thereunto, for the satisfaction and security of the commerce of Great Britain, many unjust seizures and captures have been made, and great depredations committed, by the Spaniards." For all the British ships that have been seized and confiscated, for cutting logwood in the Bay of Campechey, or for gathering salt in the island of Tortugas, ought to be reckoned among those unjust seizures and captures, which we complain of. But if in the course of a future inquiry, our rights to both these privileges are thought proper to be particularly ascertained, this general resolution never can preclude his Majesty from insisting upon a particular acknowledgment, if the circumstances of affairs will permit.

The freedom of our commerce and navigation, Sir, is the principal affair in dispute between the two nations, and that which, in our resolution, we ought to shew the greatest regard to. For this reason, I proposed keeping in the first part of the hon. gentleman's proposition; and, I think, the words I have proposed to be kept in, will be a sufficient vindication of our right to a free commerce and navigation in the open seas of America, without adding any explanations. His Majesty may nevertheless, if he finds it proper, insist upon explanations; but I do not think we should, by our resolution, so limit his Majesty, that he cannot hereafter agree to any treaty, without such explanations; because, if the Spaniards should make satisfaction to us for what injuries they have done, and agree, even in

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general terms, to a renewal of all the treaties now subsisting between the two Crowns, we ought to accept of it, rather than engage in a war; especially if it appears, that they agree to such a new treaty with a real design to observe it; for if we should afterwards find ourselves deceived; if they should begin to play the same game over again, we may in all probability find a more favourable opportunity than the present, for punishing their breach of faith, and enforcing the observance of treaties.

For my own part, Sir, I do not pretend to know any secrets about the present circumstances of affairs in Europe; I do not pretend to know what allies Spain may expect, or what assistance we have to depend on, in case of a war between the two nations; but from what is public and well known, I think every gentleman ought to conclude, if the Spaniards had not private encouragement from powers more considerable than themselves, they would never have ventured upon those insults, and injuries, that have been proved at your bar. Besides, Sir, the present circumstances of affairs in Europe are none of the most favourable for this nation, and many accidents may occur, which may render them much more favourable, than they are at present; therefore, however much some gentlemen may take upon them to ridicule the tediousness of our negociations, I think it is much more prudent to protract and draw them out to a length, than to run the nation headlong into an unequal war, or to give up any of our rights and privileges by a precipitate treaty.

I am indeed surprized, Sir, to hear it insinuated, that, because I am not for such particular resolutions, as I think may force the nation into an unnecessary or unseasonable war, therefore I do not think the matters now in dispute between Spain and us, worth the care of a British Parliament. Sir, I think every one of them greatly deserves the care of every branch of our legislature; but, I think, we should not take an improper opportunity, or improper methods, for shewing that care; we should not, like an over-fond mother, destroy our child, by taking imprudent or unseasonable methods for preserving it. While the dispute remains in the shape of a negociation, the only proper way we can take for shewing our care, is, by general resolutions and addresses, to assure his Majesty, that we will support him in whatever measures he may think proper, for asserting the rights and privileges of the nation; and after his Majesty has declared to us, that he finds he can vindicate those rights and privileges no other way but by force of arms, which certainly he will not do, till he finds he can engage in a war, at least upon an equal footing, if not with a more than probable view of success, we are then to shew our care and concern for the rights and privileges of our country, by enabling his Majesty to vindicate them, with that vigour, which becomes such a powerful nation.

I hope, Sir, I am as zealous in the defence of the rights and privileges of my country, as any man in the kingdom; but I shall never allow my zeal to carry me beyond the bounds of prudence and discretion. I shall never affect popularity so much, as to be guided by those popular prejudices, which, I think, if indulged and followed, might involve the nation into great, perhaps insuperable difficulties. Such a conduct I shall always look on as imprudent in the authors, as well as pernicious to the nation; for if, upon the present occasion, or any such occasion, we should unnecessarily hurry the nation into a war, and the event should not answer the people's expectations, I know who would be blamed, I know who would be the first to move for an enquiry into the conduct of those who had allowed the nation to be led into a war, which it could not prosecute with advantage; and as we cannot judge, whether, upon the present occasion, the circumstances of Europe are such as may enable or permit us to prosecute a war against Spain with advantage, therefore I must be against our coming to such resolutions as will, in my opinion, make a war with Spain, not only unavoidable, but imminent.

Mr. *Walter Plumer* spoke to this effect:

Sir; The Resolutions proposed by my hon. friend over the way, were so very reasonable in themselves, and so becoming the dignity of this House to insist upon, that I dare say they would have met with no opposition, had it not been for what was said by the honourable gentleman who spoke last, and who offered to amend the hon. gentleman's resolutions without understanding them; at least I will venture to say that he seems to mistake the point in question. This, Sir, we shall be fully sensible of, if we consider the affair now before us, and how it came before us: the affair now under our consideration was

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brought before us by petitions from our injured and plundered West India merchants; and the petitioners, after representing their sufferings, pray for such a timely and adequate remedy, as may put an end to their sufferings, and such relief for the unhappy sufferers, as the nature of their case, and the justice of their cause, may require. The chief question now before us is, therefore, what we shall do, or what we may be able to do, for answering effectually the prayer of their petitions? For the petitioners have so fully proved their allegations, to the regret and sorrow of almost every man that heard them, that no question can be made about the truth of what they have set forth.

Upon this, Sir, which I take to be the first and chief question, it seems to be the opinion of this House, that the only thing we can do at present, for procuring them any remedy or relief, is, to come to some resolutions, relating to the rights that are contested, and the injuries that have been done to our merchants. My hon. friend over the way has proposed a set of particular resolutions, which, I think, may in all probability produce some effect; and the honourable gentleman near him has proposed a general resolution, which, from experience we know, must be altogether ineffectual; so that the real question now in dispute is, Whether we shall come to such resolutions as may probably be effectual, for procuring that remedy and relief which the petitioners pray for; or if we shall come to a resolution, which, if we judge by experience, we must conclude to be ineffectual. It is now ten years since the same sort of complaint was made to us; and we then came to such a general resolution as the hon. gentleman has, by his Amendment, proposed: It is eight years since a second complaint of the same nature was made to us, and we again came to the same sort of general resolution: these general resolutions have been so far from procuring any relief for those who had then suffered, that many insults have been since put upon the nation, and many new depredations committed; therefore, from repeated experience we must conclude, that such a general resolution will never prove effectual for putting an end to the present, or obtaining satisfaction for the past sufferings of our merchants. Shall we then, upon this third application, amuse the unhappy sufferers with such a resolution as, we know, can have no effect? Shall we tell all the world that we dare come to no resolutions, but such as they know can procure them neither reparation nor security? What effect, Sir, might that have upon our planters and merchants? Might it not render them desperate? And yet this is the question, and the only question now before us; and to such a question I shall be proud of giving a negative.

Sir, upon the present occasion I could wish it were in almost the power of this House, to act as well as resolve. I could almost wish it were in our power to send out squadrons and armies, and to give such orders and instructions to those squadrons and armies, as might be worthy of the British nation, and sufficient for enabling them to revenge the injuries their country has received. This, it is true, is not in our power, but surely we may, and, I think, we ought to come to such resolutions, as may give our merchants and seamen some hopes of meeting at last with reparation for what is passed, and security in time to come. For this purpose we must come to resolutions, stronger and more particular than any of those we have yet come to: if we do not, we must expect, that our planters, merchants, and seamen, will give over having any further concern in trade, or fly to foreign countries for that protection, which they see they can no longer hope for in their own. The particular resolutions which my honourable friend was so good as to move for, may have some effect: they will administer to our fellow subjects the comfort at least of hoping for redress; and they may perhaps convince foreigners that this nation is not now in a humour to wait another 10 years, for that justice and satisfaction, which we ought to have had 10 years ago; whereas, if we should now come to no other resolution, but such a general one as we have twice already come to without any effect, our own people will despair of ever meeting with redress; and I can see no reason why we should expect it will now have a greater effect upon the conduct of Spain, than it had 8 or 10 years ago.

We have been told, Sir, that such particular resolutions as were at first proposed, will put it out of the power of his Majesty's ministers, to advise him to accept of general acknowledgments or declarations in any future treaty, and may consequently involve the nation in a war at a very unseasonable juncture. What the present conjuncture may be, I must confess I am quite ignorant of; but considering our situation,

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and the many disputes that must necessarily happen, as well as the jealousy that must continually subsist, between the several powers upon the continent, I must think, that, without some very imprudent sort of conduct, we can never long want a proper opportunity for vindicating and asserting our rights and privileges, against any nation that shall dare to invade them; and therefore, while we have the good fortune to be under an administration, that knows so well how to take advantage of their neighbours, and is so well instructed in the most secret views of the several powers of Europe; I must think, we can never be in danger of being involved in war at an unseasonable juncture. Indeed, if we were under the government or administration of one sole prime minister, and that minister quite ignorant of foreign affairs, or such a one whose integrity none could trust, whose faith no foreign state could rely on, whose ignorance of all the arts of government, except one, had appeared from every step of his conduct; I say, if we were so unlucky as to be under the government of such a prime minister, there might be some reason for our avoiding to come to any resolutions, that might tend towards involving the nation in war; because in such a case, we could expect no assistance from any of our allies, nor success from our own conduct. But, Sir, if this were our case, which it neither is, nor can be as long as our constitution subsists, what would then be the duty of this House? Would it not be our duty, to enquire into the state of the nation, and deliver our country from such polluted hands? Would not we be in honour and conscience obliged, to exert that power which is placed in this House by our constitution? Would not we be obliged to call such a minister to an account, and pull him from the summit of his power? for while he continued in the administration, we could never expect confidence or assistance from any of our foreign neighbours; and consequently, we could never expect a seasonable opportunity for doing ourselves justice, against those that had invaded our rights or privileges.

Whatever may be the present conjuncture of affairs in Europe, however unfortunate it may be with respect to this nation, I must think, Sir, we can neither in prudence nor honour continue to sit tamely under such insults and injuries as we have lately suffered, nor can we now trust to general acknowledgments, declarations or promises. As we have already been convinced by experience, that no general resolution of this House can be effectual, for procuring satisfaction or security to our merchants; so we have by experience been convinced, that no general acknowledgment or promise, in any treaty between us and Spain, can be effectual for such a purpose. There is not a right or privilege now contested between us and Spain, but what has been acknowledged by general words or clauses, in almost every treaty that has been concluded between the two nations; and by the treaty of Seville we were promised satisfaction, in general terms, for all the injuries they had done us before that time. How then can we expect, that general acknowledgments or promises, in any future treaty, can prove of any effect? and can we in honour or prudence accept of that, from which we can expect neither satisfaction nor security?

The present circumstances of Europe may, for what I know, be unfavourable: we may, perhaps, be reduced to the necessity of engaging in an unequal war; but the fortune of war, Sir, does not always attend that side which appears to be the most powerful; and I hope we have not yet negociated the affairs of Europe into such a system, as may have produced a formidable alliance against us, without any one ally to assist us; therefore, if we should now be obliged to enter into a war, for the preservation of our trade and plantations, the event may disappoint our fears, or do more than answer our expectations: whereas, if we wait for a more favourable opportunity, till our trade and plantations be quite undone, I am afraid, we must wait for that which never will happen. While we remain in our present unsettled condition, while we continue subject to such insults and depredations, our trade must daily decay; and the more our trade decays, the less will our power be to assist ourselves, the less ready will any of our neighbours be to assist us. It may then be out of the power of the best and wisest ministers we can have, to break or prevent any alliance that may be formed or forming against us, or to defeat the design of it, by a counter alliance; but at present, if any powerful alliance be formed against us, and we cannot form a sufficient counter alliance, it must be owing to some late weakness or mistake in our conduct; and I hope we have been guilty of no late mistake, but what may be rectified by the wis-

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dom and power of parliament, if a resolution should be taken to enquire seriously and freely into the affair, in order to take proper measures for rectifying our mistakes, and for punishing those that had been the cause of them.

The hon. gentleman wishes it were in our power to give laws to every potentate in Europe, and to prescribe to them how they should behave to one another. I wish so, Sir, as well as he; but if it were, it would be ridiculous in us to make use of our power, in cases where our own interest could be no way concerned; and in cases where our own interest is concerned, especially where common justice is denied us, we ought to make as much use of our power as we can, however inconsiderable it may be. There is a very great difference betwixt prescribing to others, and allowing others to prescribe to us. I am afraid, Sir, we have of late begun to allow a certain neighbouring power to prescribe to us, particularly with regard to Spain: I am afraid it is to these prescriptions we must impute the peaceful behaviour of the many expensive squadrons, we have lately fitted out; and I am convinced, if we continue long in the same peaceable disposition, the same power will become able to prescribe to others, as well as to us.

I shall confess, Sir, I am sorry I must confess, that this nation is not at present in a very good condition for entering into an expensive war. Our public debts remain yet unsatisfied; our taxes are, most of them, as high as in time of war, and more numerous than they ever were during the most heavy war; and what is worst of all, a great part of them are mortgaged for paying the yearly interest of our public debts; yet nevertheless, when self-preservation comes to be at stake, we may find a fund sufficient for supporting a new war; for I should, and I hope most of my countrymen would, I am sure every British subject ought to chuse to live upon bread and onions, rather than see the house of Bourbon giving laws to Europe. This is a misfortune, which every nation in Europe is equally obliged to guard against, and therefore in guarding against it, we can never be destitute of a powerful assistance, if this House do but its duty, which is, to take care, that our public councils may always be directed by men of known abilities and unsuspected integrity.

From what I have said, Sir, I hope gentlemen will see that it would be both imprudent and pusillanimous in us, to allow the fear of a war to over-awe us, with respect to the resolutions we are to come to upon the present occasion: and I hope it will appear, that no minister ought to advise his Majesty to agree to any future treaty, that contains nothing but such general acknowledgments and promises, as have already been found ineffectual; therefore, to tell us that we ought not to come to such resolutions, as may prevent any minister's advising his Majesty to agree to such a treaty, must be the same as to tell us, that we ought not to come to such resolutions, as may prevent a minister's doing what he ought not to do, which cannot surely be an argument of any weight in the present, or any other debate.

Whatever other gentlemen may think of popularity, whatever regard they may have for the opinion of the people, I must confess, Sir, that I should be not only afraid, but ashamed of being an object of public hatred or contempt; and I should be extremely doubtful about my own opinion, if I found it contrary to the opinion of most of my countrymen. Upon any sudden emergency, the people may form a wrong opinion, or they may upon some occasions be misled by artful and designing leaders; but when the people have time to consider, and when they enquire into any affair, without prejudice, the opinion that prevails among the generality of them, has in most cases been found to be right. As to its being a seasonable opportunity for entering into a war, the people may not be sufficiently able to judge; but as to the causes of a war, the people are always able to judge, whether they are just and reasonable or not; and for this reason most nations, when they declare war, endeavour to justify their conduct by public manifestos. As it is the general opinion of this nation, that we have now sufficient reasons for declaring war against Spain, as most men think that we ought long since to have revenged, in a hostile manner, the affronts that have been put upon us, those amongst us who affirm the contrary, may, for what I know, have some prudence, but I am sure they are not overburdened with modesty.

With respect to the event of a war, the case, Sir, is, indeed, very different; for neither the people nor the most clear-sighted ministers, can pretend to form any certain opinion about it: and as the people of all countries have generally too good an opinion of their own courage and strength, as this is an opinion which all wise govern-

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ments endeavour to promote, therefore the people have for the most part greater expectation from the event of a war, than they can reasonably hope for; so that the event of almost every war must be such as will not answer fully the people's expectation; yet when a war becomes necessary, when the effects of continuing in peace must be as fatal as the most unfortunate event of war, can any man be so solicitous about his own safety, and so regardless of that of his country, as to advise continuing such a destructive peace, only for fear the people should blame him, and enquire into his conduct, in case the war he had advised, should happen to prove unsuccessful?

Sir, our late peaceable conduct, our tame submission to so many insults and injuries, deserves to be enquired into, and may, for what I know, deserve the censure of parliament; I am sure it has already met with the censure of the people; but neither the hon. gentleman that spoke last, nor any other, I believe, can have the least reason to apprehend an enquiry or censure, for advising us to try the fate of war, in case we should find that we cannot by peaceable means obtain full reparation for all past injuries, and effectual security against any such in time to come; and as experience has taught us, that we can expect no reparation or security from general acknowledgments, or bare promises, we ought, by our resolutions, upon this occasion, to prevent, if possible, its being in the power of our ministers to allow themselves to be amused with such acknowledgments or promises, in any future treaty. This, Sir, is the more necessary, because from this very debate, I think we have reason to suspect, that some of our ministers are inclined to accept of any thing, rather than run the risk of a war. What reasons they may have for being so much afraid of entering into a war, I am no judge of; but I hope they are peculiar to themselves, I hope they are not such as may affect the nation, or such as ought to induce us to submit to the most cruel and contemptuous peace, rather than have recourse to an open and declared war. If they are, I am sure our late negociations and conduct is a subject highly worthy of the enquiry and consideration of parliament.

In order, therefore, Sir, to put it out of the power of, or at least to make it unsafe for, any of our ministers to advise his Majesty, to ratify such a future treaty, as can neither procure reparation for what is passed, nor security in time to come, we ought to agree to the resolutions first proposed; and if they could be made more particular and explicit, I should be for any amendment that would make them so: but as they now stand, the agreeing to them is, I think, the least we can do upon the present occasion. From our agreeing to such resolutions, our fellow-subjects will be convinced that we are serious, and they will from thence begin to conceive hopes, that their rights and privileges will soon be vindicated and asserted, either by a vigorous war, or by an honourable treaty: even the Spaniards will be convinced, that they can no longer pretend to amuse us with tedious negociations, or general promises: whereas if we curtail these resolutions in the manner the hon. gent. has, by his amendment, proposed; our fellow-subjects will despair of ever meeting with redress or security; and the Spaniards will conceive hopes, they may continue to negotiate and treat with our ministers, and at the same time plunder our merchants, for ten years to come, as they have done for ten years past.

I shall conclude, Sir, with observing, that the resolution, as it will stand by means of the hon. gentleman's Amendment, or rather the new resolution he has proposed, will, upon examination, appear to be in the same terms with the answer, which our ministers have sent to the last Spanish memorial; from whence it will of course be supposed, that the resolution of this House was dictated by the same person that drew up that answer; and I cannot think it consistent with the honour and dignity of this House, to give people without doors any shadow of reason for suspecting, that the resolutions of this House are dictated by our ministers of state; for in all our resolutions, but especially upon the present occasion, we ought to speak our own sense, the sense of those we represent, the sense of the nation, and not the sense of ministers.

Mr. *Henry Pelham* spoke next:

Sir; Gentlemen may give what turn they please to the question now before us; but in my opinion, it is plain that the true question is, whether we shall come to one general resolution; or if we shall come to a particular resolution upon every particular right in dispute between us and Spain? If any reparation or security is to be procured in a peaceable way, it is to be procured by negociation only; and no negociation

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can be carried on but by those employed by his Majesty: if it is not to be procured in a peaceable way, it must be sought for in a hostile manner, which is not to be governed or credited by the resolutions of this House, but by his Majesty only; therefore it is not the resolutions of this House, that can be supposed effectual for procuring our merchants either reparation or security, but the measures which his Majesty shall please to take for that purpose.

Thus, Sir, it appears, that there are but two methods of obtaining satisfaction from Spain, one by way of negociation, and the other by force of arms; and of these two, I hope it will be granted, the first ought to be preferred. Now, it has been said, and I think, justly said, that if we should agree to the resolutions first proposed, we shall put it out of his Majesty's power to obtain satisfaction for our merchants and seamen, or security for our trade and plantations, in a peaceable way; whereas, if we agree to the amendment proposed, we shall leave it in his Majesty's power to obtain what the petitioners pray for, by means of a negociation, without laying him under any obligation, or even a temptation, to accept of any thing less than what is contained in the particular resolutions proposed. From whence I must conclude, that the proper question now before us is, whether we shall by our resolutions make an immediate war unavoidable, let the present conjuncture be what it will; or, if we shall leave it in his Majesty's power to endeavour to obtain redress by way of negociation; and I hope there is no gentleman within these walls so fond of fighting, as to be for involving the nation in a dangerous and expensive war, even though every thing we could ask, should be previously offered in a peaceable way.

Whatever the hon. gentleman who spoke last, may be pleased to say upon the present occasion, with respect to the power of the crown, or of the power of this House, I hope, Sir, that neither he, nor any other gentleman who has the honour of sitting here, wishes we had any more power as members of this House, than what is vested in us by the constitution: and if gentlemen would but reflect upon the confusion and tyranny that ensued, within the last century, from this House's having assumed more power than it ought to have, I am sure they would not desire to see the least step made towards a reassumption of the same power.

But supposing, Sir, that we should succeed in reassuming such a power, why in the name of goodness should we make a wanton use of it, by fitting out fleets and armies before we find that no other arguments will prevail? I believe there are very few in the nation that question in the least, but that his Majesty has all the inclination in the world to procure full satisfaction by way of negociation, or that he will take proper measures for obtaining it by force of arms; so that we have no occasion for coming to any resolutions, and much less for putting the nation to any expence, in order to revive the hopes of those that are drooping, or to prevent any man's despairing of ever meeting with redress; and with respect to foreigners, it is certain nothing can in a more forcible manner influence their councils, than their perceiving that the parliament puts an entire confidence in his Majesty's conduct, which they will necessarily presume from our coming to a general resolution only, upon the present occasion; whereas if we should enter into a discussion of our several rights and privileges, and come to a particular resolution upon each, it will be of course supposed at all foreign courts, especially at that of Spain, that we doubt either of the abilities or inclinations of those that are employed by his Majesty in the administration of our public affairs.

I shall with pleasure grant, Sir, that our being situated in an island, and in a manner detached from the rest of the world, furnisheth us with many considerable advantages, and among the rest, with that of having it often in our power, to make an advantage of the disputes and jealousies that happen to arise among our neighbours upon the continent. This may often furnish us with a proper opportunity for vindicating or asserting our rights and privileges; but it cannot at all times, and just when we stand in need of it. The affairs of Europe may take such an unlucky turn, as to unite two potent neighbours against us, at a time when the rest are at variance among themselves, or so much engaged or entangled, that they cannot give us any assistance; and therefore we may sometimes be in danger of being involved in a war at an unseasonable juncture. Whether the present be such a one, I shall not take upon me to say; but if it is, I am sure the wisest thing we can do is, to continue our negociations, or even to accept of a treaty of peace, though it should contain nothing but ge-

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neral acknowledgments and confirmations, in hopes that a short time may produce such an alteration of affairs in Europe, as will afford us an opportunity for insisting upon such new explanations and particular concessions, as we may then think reasonable; But it would be wrong in us to do any thing that might bring an immediate war upon the nation, without knowing whether the present conjuncture be seasonable or not; which is a knowledge we can acquire no way, but by a declaration from his Majesty: and surely no gentleman that has a regard for his country, would desire his Majesty to declare, before such a public and numerous assembly, that we cannot at present propose to enter into a war with any prospect of advantage; because, not only the Spaniards, but all those with whom we have now any dispute, would certainly take advantage of such a declaration: They would from thence presume, they might force us to agree to any terms of peace they pleased to prescribe, or at least they would become much less tractable than they were before they heard of such a declaration.

I shall confess, Sir, that some branches of our trade, and likewise some of our plantations, have suffered a little by the late behaviour of Spain towards us; but their sufferings are not, I believe, near so considerable as some people seem fond of representing; and had these sufferings been much more considerable, we ought not to expose the whole to the fate of war at an unseasonable juncture, for the sake of preserving a part; especially when we consider, that we can hardly fail of getting an opportunity in a short time, for endeavouring to recover our losses, with a probable view of success. If the Spaniards were always to behave towards us as they have done of late years, and we were always to allow them to behave in the same manner, the whole of our trade and plantations might at last come to be in some danger; but can it be supposed, Sir, that unless we immediately declare war, the Spaniards will always continue to treat us as they have lately done? By no means; for there were neither equity nor honour at that court, yet as soon as they become sensible, which they must soon be, of their own interest, they will certainly court our friendship, instead of provoking our resentment.

But, suppose, Sir, the Spaniards should go on in the same way for some time longer, then can it be supposed that we shall always bear such treatment, with the same patience and good-nature? Suppose we have as yet some hopes of obtaining satisfaction by peaceable means, or suppose the present an unseasonable juncture, for us to declare war against Spain; are we from thence to presume, that we shall always entertain the same hopes, or that the affairs of Europe will always continue upon the present footing? No, Sir, it is impossible, but, from the clashing interests of the several powers, some new scene must in six or eight months happen in the affairs of Europe. It may then be a proper season for us to declare war; and if full satisfaction is not made us before that time, we may be assured his Majesty will take hold of it, and make the proper use of it, for glutting the revenge, as well as repairing the honour of the nation. As this season cannot, from the natural course of things, be supposed to be very remote, neither our trade, nor our plantations, can suffer much in the mean time; and therefore we may yet wait a while, in hopes of obtaining satisfaction by peaceable means, or in hopes that a more favourable opportunity will soon offer for obtaining it by force of arms, without the least ground for supposing that our trade and plantations will thereby be utterly undone.

I shall always be as ready, Sir, as any man, to sacrifice my all, for preserving the honour and independency of my country; but if the nation be in such a melancholy condition as the honourable gentleman has been pleased to represent, surely we ought at least to be cautious of doing any thing that may tend to involve the nation in a war. We ought to avoid doing any thing that may seem to have such a tendency, unless it appear absolutely necessary for our immediate preservation; which I take by no means to be our case at present. If it is either necessary or expedient that our rights should be particularly asserted in any future negociation, his Majesty will certainly do so: but I am far from thinking, that it will be necessary for his Majesty to insist upon such particular acknowledgments, declarations, or promises; for the behaviour of two independent nations to one another, does not so much depend upon the general or particular stipulations that are between them, as upon the necessity they respectively think they have, for cultivating a reciprocal friendship. If the Spaniards begin to think that they ought, for their own sakes, to cultivate a friendship with this nation,

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(and, as soon as they begin to think justly, they will think so) they will then perform any general promises they may make, or any general engagements they may enter into with us, more strictly and faithfully than they would perform the most express and particular stipulations, if they should think otherwise.

We have at present, Sir, and must always, have disputes with other nations as well as Spain; and, without doubt, it would be extremely convenient for us to have all the rights and privileges, which any nation pretends to dispute with us, fully explained, and particularly declared and established: but, I believe, we never made any treaty, where we could obtain all that was convenient for us; I believe, no nation ever did; for a carte blanche is not properly a treaty; it is the law which the conqueror prescribes to those he has conquered. In every case where a treaty is to be made, both the contracting parties must accommodate themselves to times and circumstances; and neither party can, or will, insist upon all they can ask, lest by so doing they lose what they may have. This must be our case, if we ever come to any future treaty with Spain. We must accommodate ourselves to times and circumstances, and must insist upon no more than they will then admit of; but if this House should agree to the resolutions first proposed, it will put it out of the power of any minister, to advise his Majesty to accommodate himself to times and circumstances, in relation to any future treaty with Spain; which will of course make a war unavoidable; for it is not to be supposed we can prevail with Spain, to agree to every thing we propose, unless we force them to it by a successful war. Nay, after we have entered into a war, it is great odds if we meet with such success, as may intitle his Majesty to insist upon every thing, that may be supposed to be contained in these resolutions; so that it would be impossible for his Majesty, or any of his successors, to put an end to the war by a treaty of peace, or to agree to any preliminaries for that purpose, without first laying those preliminaries before this House; and such a publication might put it in the power of those that are enemies to both nations, to prevent the negociation's taking effect.

I hope, Sir, I have now made it appear, that there is no necessity for our coming to such particular resolutions as were at first proposed; and that our coming to such, might be attended with the most fatal consequences, because it might not only involve the nation in a war, but involve it in a war, perhaps, at a very unseasonable and unlucky juncture. I know I am arguing against that, which seems to be the popular side of the question; I know that by some means or other, a very great resentment has been stirred up among the people, against the depredations committed by the Spaniards, and, I confess, they deserve our highest resentment by blows, not by words; and if we chuse an improper time for giving the blow, we may receive a greater than we can give. I shall always have a great regard for the esteem, and likewise for the opinion of the people; but, I shall never do what I think contrary to the interest of my country, for the sake of an immediate esteem; because, I know, it can never be lasting; and I should follow any popular opinion rather than that relating to what provocations may be sufficient for declaring war. In every such question, the people may be compared to a number of generals assembled in a council of war, and deliberating, whether or no they ought to attack the enemy. Many of them may, and often do, give their opinion for attacking, not because they think it the most prudent, but lest their courage should be suspected, in case they should give their vote for the other side of the question.

Though his Majesty's servants may be against this House's attempting by any of their resolutions, to tie up his Majesty's hands, so as to make an immediate war unavoidable, let the principal conjuncture be never so unfavourable, it is not from thence to be inferred, Sir, nor, do I believe, that they are inclined to accept of any thing rather than run the risk of a war; nor do I believe, they have any reasons against a war, that are peculiar to themselves. Whatever reasons his Majesty may have, for not resolving upon an immediate declaration of war, whether they proceed from the hopes he may yet have of obtaining redress in a peaceable manner, or from his being sensible that the state of affairs in Europe, will in a short time afford a much more favourable opportunity for declaring war, they must be such as affect the nation in general; and, they may be such as ought to induce us to try, for a while longer, the method of negociations, or even to protract and continue our negociations, after we are convinced that that method will at last prove

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ineffectual, without being such as ought to induce us to accept of a cruel and contemptuous peace, rather than have recourse to an open and declared war. The space of half a year only, may so change the face of affairs all over Europe, as to enable us to enter then into a war with great seeming advantage, and yet the present conjuncture may be such a one, that we cannot immediately enter into a war without apparent ruin. Suppose, then, this to be the case at present, would it not be highly imprudent in us to do that, which must immediately involve the nation in a war? Would it be reasonable in us, to desire his Majesty to communicate to such a numerous assembly, the present state of affairs in Europe, or the alterations which he expected might in half a year's time be brought about? Such a request, his Majesty could not surely comply with; because, such a communication would certainly render our present condition worse, and might probably prevent those alterations, from whence only we could expect to make it better.

From the reasons I have given, Sir, and, I hope, they will appear sufficient reasons, for our not agreeing to the resolutions first proposed, I think it is evident, that the only resolution we can come to upon the present occasion, must be such a one as my honourable friend has by his amendment proposed. By such a resolution, we shall leave it entirely to his Majesty, to insist upon particular acknowledgments of all our rights and privileges, now contested by Spain, or to accept of general acknowledgments, in case the present should appear to be an unseasonable conjuncture for our declaring war against that kingdom. By this we may avoid a war, at least we shall avoid being engaged in an unequal war; for, if we trust to his Majesty's wisdom, we may depend on it he will not involve the nation in war, unless he sees that he has got a proper opportunity for so doing. At the same time, we shall, I think, by such a resolution, sufficiently assert the principal right, now in dispute between Spain and us, and we shall sufficiently shew our resentment against the usage our merchants and seamen have met with. This will convince the court of Spain, that his Majesty will meet with the approbation and assistance of his Parliament, in whatever measures he may take for obtaining redress, which may probably make them alter their conduct towards us; and, from such a resolution, all those who understand any thing of our constitution, will see, that we have, in this House, done as much as was possible for us to do, upon such an occasion; from whence every man, who has not something very dismal in his constitution, will conclude, that he has no reason to despair of seeing justice done to himself and fellow-subjects, and the rights and privileges of his country established.

Before I have done, Sir, I must take notice of the objection made by the hon. gentleman that spoke last. He says, the resolution, as it will stand by means of my honourable friend's amendment, will appear to be in the same terms with his Majesty's answer to the last Spanish memorial; and, that therefore, we ought not to agree to it, lest it should be thought that the resolution of this House was dictated by our ministers of state. I cannot say, Sir, that I have compared the two together, so as to judge whether they be in the same terms or not. But, suppose they are, is there any scandal in our agreeing with the Crown, or even with our ministers of state, when that which they have done appears to be right? Sir, in my opinion, that is so far from being an objection to the resolution my honourable friend has proposed, that it is a strong argument for our agreeing to it; for, surely, it must administer comfort and encouragement to our own people, to see his Majesty and his Parliament agreeing upon the same measures for their relief; and, as it will convince the Court of Spain, that there is a good agreement, and thorough understanding, between his Majesty and his Parliament, it will be an argument of the greatest weight with that Court, for prevailing on them to agree to what his Majesty has proposed, or may propose, towards an accommodation; therefore, if we have a mind, that our present differences with Spain should be settled in an amicable way, if we have a mind to incline them to hearken to reason, or the voice of peace, we ought to agree to the amendment proposed: nay, unless we have a mind to encourage or encrease their obstinacy, by making them and all Europe believe there is a disunion and distrust between his Majesty and his Parliament, we must agree to the amendment proposed.

Sir *William Windham* said:

Sir; I am extremely surprized to hear the present debate so much mistaken, as I find it is, by the hon. gentleman who spoke

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last. Is there any gentleman in this House has supposed, is there any gentleman can suppose, that the resolutions of this House can be effectual in the case now before us, without the concurrence of the Crown? We may, by our resolutions, which we offer only by way of advice to the Crown, determine indeed, what are the rights of the nation, we may determine what are the injuries we have suffered; we may go farther, we may determine or rather declare, what methods we think ought to be taken for asserting those rights, for revenging those injuries; but, unless they are carried into execution by the Crown, or by those employed by the Crown, they cannot of themselves be supposed to be effectual.

In the present case, Sir, complaint has been made to us, that our trade has been interrupted; that many of our merchant-ships have been plundered, and many seized and confiscated; that many of our seamen have been cruelly used; and that some of our most valuable and most undoubted rights and privileges have been invaded: The Petitioners pray, that we would procure them relief, and that we would provide a remedy for these evils. What can they mean by such a prayer? Surely they do not mean, that this House should declare war, or send ambassadors to Spain to demand satisfaction. Either they must mean, that, if these grievances have been occasioned by the fault or neglect of any of our own subjects, we should enquire into it, and punish those that have been to blame; or they must mean, that we should enquire what injuries they have suffered, and what national rights or privileges have been invaded, that we should represent to the crown those injuries and invasions, and that we should give such advice to his Majesty, as, if followed, will be effectual for procuring the relief and remedy they pray for. Upon supposing that his Majesty will follow our advice, it may be said, that one resolution, or one set of resolutions, will be more effectual than another; and, therefore, the question now under our consideration is, which of the two propositions made to us, contains the fullest and truest representation of the national rights and privileges, that have been invaded, and of the injuries which our trade and merchants have suffered.

In this light, Sir, let us compare the two propositions together, and we shall soon see which ought to be preferred. The first contains a particular enumeration of the several grievances we labour under, mentions the pretences that have been made use of for putting such grievances upon us, and particularly asserts, as well as sets forth, every right or privilege that has been invaded. The second contains only a general representation of the injuries we have suffered, without mentioning any one pretence that has been made use of, or properly asserting, or so much as mentioning, any one right or privilege, that has been invaded. The first shews it to be our sentiments, that the several rights and privileges of this nation, which have been invaded, ought to be particularly acknowledged; that the several pretences made use of for invading them, ought to be particularly explained, and expressly given up; and that an immediate and specific satisfaction ought to be insisted on: The second, if agreed to, will make it be looked on as the opinion of this House, that a general acknowledgment of our rights, and a general promise of satisfaction, may be accepted of.

Upon such a comparison, Sir, can any gentleman, after the late experience we have had, think, that such a general acknowledgment of our rights, will be effectual for securing our trade in time to come, or for redressing our injured merchants for what is past? Let any man, Sir, read any of the treaties, from the treaty 1667, to the treaty of Seville, and then think that general acknowledgments or general promises are sufficient for our purpose. His Majesty, it is true, may, I hope he will, insist upon particular acknowledgments of our several rights, that have been lately contested or invaded; upon a sufficient specific sum, by way of reparation to his injured subjects; and upon an exemplary punishment's being inflicted upon those Spanish governors or commanders, that have injured them: his Majesty, I say, may insist upon such terms, notwithstanding any opinion we may now give, or any resolution we may now come to; but certainly, it would be wrong in us to give, as the opinion of this House, what cannot be the real opinion of any man in the kingdom. To offer such an opinion by way of advice, would be a misleading of the crown, or enabling ministers to do so; therefore, in duty to our sovereign, in justice to our much injured country and countrymen, in honour, in conscience, with respect to ourselves, we are bound not to give any such advice.

Peace, Sir, is certainly preferable to

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war; and every good man must wish, that his Majesty may be able to procure satisfaction and security by way of negociation: but war is preferable to an ignominious peace; and every man who has a regard for the honour of his country, or the safety of his fellow subjects, would chuse to see the nation involved in war, let the event be what it will, rather than see it insulted and abused, as it has been by Spain for almost these twenty years. By agreeing to the resolutions first proposed, we do not put it out of his Majesty's power to obtain satisfaction in a peaceable way, we only put it out of the power of, or at least make it hazardous for, ministers, to advise his Majesty to agree to an ignominious treaty of peace; which any treaty will be, that does not procure ample satisfaction to our injured merchants and seamen, and future security to our commerce. For this purpose, every man must be sensible from what's passed, that general acknowledgments or bare promises will not be effectual: Nay, I am of opinion, that even the most particular acknowledgments and explanations, will not of themselves prove effectual. We must insist upon the punishing of those Spanish governors or captains of guarda costas, that have injured us, and upon some signal atonement's being made to the nation, for the many affronts that have been put upon it; for I am afraid the Spaniards have, from our late behaviour, conceived such an opinion of our fondness for peace, that they will shew but little regard to the most particular and solemn engagements they may make with us. Their attack some years since upon Gibraltar, at a time when our harmless fleets appeared upon their coasts, without any hostile intention, I believe, against them, or any of their allies; and their late attack upon our ships at the island of Tortugas, notwithstanding its being a time of profound peace between the two nations, and notwithstanding one of the most particular, and most explicit concessions, that could be made by one nation to another: These two attacks, I say, with the continual attacks they make upon our ships in the bay of Campechy, give me some reason for suspecting, that they do not now think themselves under a necessity of standing upon ceremonies with regard to us, or of observing the most particular and express stipulations they can make with us.

I shall not pretend, Sir, to dispute the good natural disposition of his Catholic Majesty, or his inclinations to do justice to this nation; but I must say, we have as yet felt none of the effects, either of the one or the other; and I am afraid, those who have so good an opinion of his inclinations, will at last find they have trusted to them more than they ought to have done. However, let his Catholic Majesty's natural disposition be never so just, let his inclinations towards us be never so favourable, if his governors and captains in the West-Indies are allowed to imagine, that they may plunder, or unjustly seize and confiscate British ships, without any fear of punishment, if they find they have nothing to apprehend, but being simply obliged to restore, they will every now and then be nibbling; for restitution is seldom made complete, something will always stick to the fingers of the tellers; and as such disputes are, we find, extremely tedious, possession in the mean time will in every case be worth something. For this reason we must, in my opinion, insist upon condign punishment, as well as complete restitution, otherwise our future security will always be precarious; and our insisting upon such terms, or our obliging our ministers to insist upon such terms, will not, I hope, make an immediate war necessary. Unless we have, by some very odd blunder in politics, cooked up such a system of affairs abroad, as has united some of the chief powers of Europe with Spain, and has at the same time detached from us, every ally we formerly had, or at least every ally that can afford us any assistance, I am sure the Spaniards will agree to such terms, rather than come to an open rupture: so that our coming to such resolutions as were first proposed, instead of making war necessary, will make peace, I mean a real and an honourable peace, more quickly attainable; because if Spain has nothing but her own strength to depend on, and if our ministers have taken care that we have such allies as we ought to have, our resolutions will make Spain think it necessary, to agree immediately to what is just and reasonable, in order to prevent a rupture; for though that court may believe, and may perhaps have found that they can cajole and amuse a British minister, I hope they are not so vain as to think, they can cajole or amuse a British parliament.

Although we have not the power, Sir, to send out fleets or armies, or to give orders or instructions to fleets or armies; yet as members of this House, we have, by our constitution, a power to enquire

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into the conduct of those, who, by their employments, are to give his Majesty their best advice in such cases; and, if upon enquiry it should appear, that they have not advised his Majesty to send out proper fleets or armies, or have not advised him to give them proper instructions, for revenging the affronts that have been put upon the nation, we have a power, and we are in duty bound, to remove such counsellors from his Majesty's councils. But, if it should appear, that such counsellors advised pacific measures, when immediate vengeance ought to have been taken, if it should appear, that the affronts offered were of such a high nature, that it was dishonourable for the nation to submit to a negociation, we would, in that case, have a power, and it would be our duty, to punish such weak or wicked counsellors. In public life, as well as private, there are some affronts that cannot, by the custom of nations, admit of a peaceful accommodation, of any negociation for that purpose. If a gentleman should be caned in the open streets, and should, instead of making a proper return, send a clergyman next morning to the aggressor, to beg that the affair might be made up in an amicable way, the aggressor might, perhaps, look upon his patient as a good Christian, but I am sure he would not look upon him as a gentleman, or man of courage; and therefore he would probably offer no other satisfaction, but such a one as no man of honour could accept of, or perhaps, and most probably too, he would bully and say, the fellow deserved what he had met with. A man of true honour, upon meeting with such an affront, would immediately take his own satisfaction, and that too with the very first opportunity.

In public life, and in national affairs, the case is the same. There are some affronts that may be put by one nation upon another, which ought to be immediately resented in a hostile manner. All attacks or insults ought be resented in such a manner, when it appears evident that it was done by public authority. When an insult is committed by the subjects of any nation, without an apparent commission, or other authority from their government, the injured nation may send ambassadors to demand satisfaction; and ought not to resent the injury in a hostile manner, till the other nation has made the act its own, or has taken the guilt upon itself, by denying or unreasonably delaying to punish or give up the offenders. But when the insult or attack appears, from the very nature of it, to have been committed by public authority, satisfaction ought not to be sued for by ambassadors; it ought to be immediately taken by fleets and armies, properly instructed for that purpose. And such, I am of opinion, we ought to have reckoned several insults put upon this nation by Spain, within this last dozen years: nay, I may say, that the court of Spain seems to have been ingenious enough, to fall upon the most effectual method for provoking a national resentment on our part, by making every injury, that has been done us by any of their subjects, the act and deed of the whole nation; for though they have acknowledged some of the injuries done, to be such, yet I do not hear that they have, in any one case, made a complete restitution of all costs and damages, or that they have punished, or given up any one of the offenders. From hence, Sir, I must think, that those who ought to advise his Majesty, have been to blame, in not advising him to resent some of the affronts that have been put upon us, by immediate hostilities, or an immediate declaration of war; I must think they have been to blame, in not advising his Majesty, in most of the other cases, to insist more peremptorily upon a speedy and complete restitution, and upon a severe punishment's being inflicted upon all those Spanish governors or commanders of guarda costas, that had any way injured the subjects of this kingdom: and, if I am right in my opinion, we ought upon this occasion, to go farther than any thing yet proposed: we ought to enquire into the conduct of some of those who are, by their posts or employments, obliged to give his Majesty their best advice. This, I think, Sir, is our duty; and if the resolutions first proposed be agreed to, I hope, that agreement will be followed by a proper motion for this purpose; which would, I believe, tend more to revive the drooping spirits of our injured fellow subjects, than any other resolution we can come to.

For this reason, Sir, were there no other, I hope the resolutions first proposed will be agreed to: For if they are not agreed to, I am sure no gentleman can expect to succeed, and therefore no gentleman will make any motion for such an enquiry. The present unlucky state of affairs in Europe, or the danger this nation may be in, of being involved in a heavy war, can be no argument against such an enquiry; for it was upon such occasions

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that the Roman people, while they retained their virtue, got their guilty magistrates punished, and their own liberties secured. In their histories, we have many examples of their insisting obstinately upon a confirmation, or enlargement of their privileges, or upon an enquiry into the conduct of their magistrates, when the enemy was almost at the gates of their city. This obstinacy never did that brave people any damage: for as soon as they got their liberties secured, or their guilty magistrates punished, their armies went out with alacrity, and returned with victory. In this country, I hope upon the present occasion, the case would be the same: Give the people but satisfaction: Put our fleets and our armies under those, in whose wisdom and conduct they have a confidence, and I promise for them, they will give a good account of their enemies. Whereas, if you go to war, while your people are discontented, and consequently dispirited; if your fleets and your armies are under the conduct of those, who by their past management have forfeited their character, both among your soldiers and sailors, you can expect no success, either from your fleets or your armies. Therefore, in case a war should become unavoidable, I am afraid it will be necessary for us to enter into such an enquiry as I have mentioned, in order to give satisfaction to our people, either by justifying our late conduct, in case it should appear to have been prudent and wise; or by removing or punishing those, that have been the chief advisers of it, in case it should appear to have been pusillanimous and imprudent.

But, Sir, I am of opinion, that the best method we could take for preventing a war, would be, to resolve immediately upon enquiring into our late conduct; because, if the enemies of this nation have got any advantages from our conduct in time of peace, they may reasonably hope for greater in time of war, and therefore may now refuse to give us a proper satisfaction or security, because they are desirous of coming to a rupture; whereas, if we this day resolve upon an enquiry, our enemies will expect a change in our managers, and from thence a change in our conduct, which must diminish, if not destroy their hopes of getting any thing by a war, and may consequently alter their inclinations.

To tell us, Sir, that the court of Spain cannot, in a peaceable manner, be brought to agree to such particular acknowledgments, and specific promises, as they have, by their own conduct, made necessary for the satisfaction and security of this nation, is to tell us, that they despise us. If this be the case, we can expect no real peace, notwithstanding any new treaty we can make with them: We must expect, that after the next treaty, they will continue to treat us as they have done since the last. We can expect nothing but repeated insults and depredations, till by a vigorous war we convince them of their error, and compel them to alter their behaviour. But this, Sir, is not the case; they may perhaps despise our negociators; but, I am persuaded, they do not, I think they cannot, despise the nation. They may hope, that our fleets and armies will be bound up in time to come by pacific instructions, as they have been upon some former occasions; but they know too well the alacrity and courage both of our soldiers and sailors, not to be afraid of their being sent against them with proper instructions; the best thing therefore we can do upon the present occasion, is to lay our negociators under a necessity of treating with them, upon a footing different from what they have done; and our ministers under a necessity of furnishing any fleets or armies, they may hereafter put the nation to the expence of sending out, with such instructions as shall make them spread terror, instead of laughter, wherever they come. For this purpose, the resolutions first proposed, are so far from being too particular or explicit, that, I think they ought to be made more particular and more explicit. If we should add to each of them in express terms, that it is the opinion of this House, war ought to be declared against Spain, unless such a right or privilege should be particularly acknowledged, or unless such a violation of the law of nations, or such an insult should be atoned for, by punishing or giving up the authors, I do not think we would be in the least to blame; and, with regard to the damage that has been done to our merchants and seamen, if we should appoint a select committee to take a particular account of it, and to state the specific sum they thought it amounted to, and if we should upon their report come to a resolution, that such a specific sum ought be demanded and peremptorily insisted on, for making good that damage to the sufferers, I am convinced very few persons in this nation would think we had gone a

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bit too far, nay, that we had done wisely, by avoiding being the dupes of Spain and the scoff of all Europe.

However, Sir, I am confident, that as soon as those resolutions are laid before his Majesty, he will order and empower some proper persons to examine particularly into the several depredations that have been committed upon his subjects, and to state the specific sum they amount to. I am likewise confident, that in any future treaty his Majesty will insist upon this specific sum's being immediately paid, and upon every other reparation for satisfying the honour of this kingdom. These things, I say, Sir, I am confident his Majesty will insist on; at least, our resolutions, in case we agree to those that were first proposed, will, in some measure, shew that they ought to be insisted on.

I am surprised, Sir, to hear his Majesty's name mentioned in the manner it has been in this debate. His Majesty's wisdom and conduct is so well known, that if it were possible for him to see every thing with his own eyes, and to execute every act of government or power by himself, without the interposition of ministers or servants, there would be no occasion for our entering into any enquiry, or coming to any resolutions. We are not, Sir, so much as to doubt of our sovereign's wisdom or conduct in any affair whatsoever; but, the wisdom and conduct of his ministers or servants we may doubt of, we ought to doubt of it: it is what we ought often to enquire into; and I must think there never was greater occasion for doubting of it, and enquiring into it, than at present. For this reason, whatever I have said, or may say upon the subject now under our consideration, will, I hope, be supposed to be meant only of the conduct of his Majesty's ministers; and that conduct, I hope, I may freely examine into, and freely censure, without giving any just offence. I believe there is no man in the kingdom questions but that his Majesty would have long since obtained full satisfaction and security, either in a peaceable way, or by force of arms, if he had not been misinformed, and misled by advice, which now, I think, appears to have been none of the most prudent; and, if foreigners have begun to presume, which I am afraid they have, that our ministers are weak and imprudent, and upon that presumption have begun to treat this nation in a haughty, unjust, or contemptible manner, their perceiving that the parliament continues to put an entire confidence in the conduct of such ministers will not, I am sure, prevail with them to alter their conduct, with regard to this nation, in time to come.

I am of opinion, Sir, that our situation as an island will always furnish us with an opportunity, if we have the good luck to be under a prudent and wise administration, for asserting our rights, in case of encroachments from any of our neighbours; because while we hold the balance of power in Europe, we shall always be provided with such an opportunity; and, we can never lose holding the balance of power in Europe, but by a long series of egregious blunders. However, supposing that our situation does not always furnish us with such an opportunity, if, as the gentlemen say, it often does, I cannot comprehend how it has happened, that we could find no such opportunity for these 20 years past; for, every one knows that it is more than 20 years since the Spaniards first began to incroach upon or invade some of our rights or privileges; and, it must be granted, that since they first began, they have continued without any long intermission. I am therefore very suspicious, we have of late years neglected several good opportunities for compelling them to settle all disputes with us to our own liking; and, from thence, there is, I think great reason to fear, that those who have neglected past opportunities, will not make a good use of any future, unless we lay them under a sort of necessity for so doing, by the resolutions we come to upon this occasion.

In deliberating what we ought to do upon the present occasion, we are not, Sir, to consider, whether the present conjuncture be a proper one, for repairing our wrongs, and vindicating our rights and privileges. We are to consider what rights and privileges of this nation have been invaded by Spain, and what injuries they have done us, in order to declare them to his Majesty, in what manner the former ought to be asserted, and the latter resented. This we are to do, that his Majesty may from thence see, the rights and privileges of this kingdom that have been invaded, and the injuries that have been done to his subjects; and that he may know what we think ought to be done upon such an occasion. His Majesty only is to consider whether the present be a seasonable conjuncture, for doing what ought to be done; and if it is not, he will

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of course consider, how it comes that the present conjuncture of affairs in Europe happens to be so unfavourable for this nation. This will naturally make him reflect upon the late information and advices he has received; and if they appear to have been wrong, it will make him change his measures, and perhaps his counsellors. If his Majesty should, upon examination, find, that the present is not a proper season for insisting upon such terms as we ought to have, he cannot, by the resolutions proposed, or by any resolutions of this House, be obliged to insist peremptorily upon such terms, nor can his ministers be exposed to any danger, for advising him to accept of more general terms, though they may be neither so honourable nor effectual. But it is still to be understood, that they had no hand in rendering the conjuncture so unfavourable for their country, nor had neglected to take advantage of any preceding conjuncture that was favourable. With regard to his Majesty, the only effect our resolutions can have, will be to give him a full and true information, and, I hope, a wholesome advice; and, with regard to his ministers the only effect our resolutions can have, will be to make it dangerous for them to advise him to accept of, or to ratify a dishonourable or ignominious treaty, at a time when the circumstances of our affairs both at home and abroad, afforded him an opportunity for insisting upon honourable terms; and for both these purposes, I must think the resolutions first proposed will be much more effectual than the resolution proposed by the hon. gentleman's amendment.

I must grant, Sir, that if a motion were to be made in this House, for an immediate declaration of war, I should be against agreeing to such a motion; because, I really believe the affairs of Europe are, at present, in a state not very favourable for this nation; but I must say, I am of opinion, it is pretty much owing to our own conduct. I am afraid it will be found, that for many years our neighbours, the French, have had the art to make us fall out with Spain whenever they had a mind; and after they had set the two nations by the ears together, they have had authority enough, to make us carry on the war in such a manner, and agree to an accommodation upon such terms, as they were pleased to prescribe. By this management the Spaniards have found, that they can expect nothing from our friendship, nor need fear any thing from our enmity; which has been the chief cause of their insulting behaviour towards us, and will always, while it subsists, produce the same effect; and by the same management, I am afraid, our character has been so much lessened at all the courts of Europe, that none of them are now fond of an alliance with us, nor ready to give us their assistance. If I have been rightly informed, even our good allies the Dutch begin to look cool upon us; for I have been told that an application was lately made to them, to join with us against Spain, and that they answered coolly, 'If Spain pretends to do 'us an injury, we know how to right our-'selves without your assistance.' Whether this be true or not, our ministers know much better than I can pretend to; but if it is, I must from thence conclude, we have not an ally in Europe, we could trust to for assistance, in case of a war; and therefore I must conclude, that the present is a very unseasonable conjuncture for us to declare war against Spain; because we cannot foresee what assistance they might, in such a case, meet with, from some of the other powers of Europe, especially from those who are naturally no great friends to this nation. However, Sir, our agreeing to the resolutions first proposed, can have no other effect, than to shew his Majesty what we think ought to be done; and as our coming to such resolutions will be an argument for convincing our old and natural allies, that the nation has at last got out of its leading strings, as the resolutions of parliament will have greater weight, and will be more confided in, than the resolutions of any of his Majesty's other councils, our coming to such resolutions, may probably restore our character at foreign courts, and enable his Majesty to bring about such an alteration in the affairs of Europe, as will furnish us with a good opportunity for resenting the injuries we have met with, and for vindicating and asserting every one of the rights or privileges of the nation, that has lately been invaded, or any way incroached on.

I am extremely surprized, Sir, to hear the least insinuation made, that we ought always to approve of what appears to be the sentiments of his Majesty's ministers, or that we ought, upon all occasions, to speak their sense only. To establish this, as a rule for our conduct, would be such a disgrace, as, I hope, this House will never incur. I have so good an opinion even of this parliament, that I cannot imagine we will approve of this maxim; because, no

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parliament that establishes or observes such a maxim, can be of any use, either to their king or their country; therefore, I hope we will, by our resolutions of this day, convince the world, that we are no way under the direction or influence of our ministers of state. It is a maxim, Sir, that we ought not to speak ill of the dead; but, this maxim relates to dead men, not to dead parliaments: of parliaments, we must say nothing amiss, while they are living; but, after they are dead, we are allowed to tell the truth, and to give our sentiments of them freely. This parliament will soon come to die, as others have done before it: It can live but a very few years longer; therefore, let us consider what people will say of us when we are dead, if we should give the least reason to suspect, that we approved of such a maxim. Some former parliaments have seemed, by their behaviour, to approve of this maxim: they seemed to speak, upon all occasions, the sense of our ministers, and their sense only; but, I am sure, the character now generally given to those parliaments, can be no encouragement for us to follow their example. If we have a mind to produce, by our resolutions, any change in the conduct of Spain towards this nation, we must not, upon this occasion, shew a thorough approbation of the measures or sentiments of our ministers. For above this dozen of years past, it has appeared, that there was a thorough understanding and agreement between our parliaments and our ministers: the resolutions of the former have been nothing but echoing back the resolutions of the latter, and the sentiments and measures of the latter have been all, I shall not say implicitly, approved of by the former; yet, during a course of so many years, it has not produced the least variation in the conduct of Spain, with regard to their behaviour towards this nation. On the contrary, I believe it has encouraged them to continue their insults and depredations. It is therefore now high time for us to alter our method, in order to convince the Spaniards, that, whatever hopes they may have of being still able to amuse our ministers, they can no longer hope for being able, even with the assistance of British ministers, to amuse a British parliament.

Having said thus much, Sir, I shall observe, that, if we consider the last Spanish memorial, and the estimates for the service of the ensuing year, we shall find, in my opinion, an irresistible argument for coming to the most vigorous resolutions upon the present occasion. By the last Spanish memorial it appears, that the court of Spain are as far from yielding to grant us either satisfaction or security in a peaceable way, as they were seven years ago; and yet, by the estimates for the ensuing year, it appears that we have no design to seek for it in any other way. It is an old maxim in treaty making, that the best method of treating is to treat sword in hand. We have been treating for these eight or nine years, without sword in hand, and the event has shewn the mistake we have been guilty of; for, by what I can find, we are not now so near our purpose, as we were when we first began; because our complaints, and consequently our demands, increase daily, and the more they increase, the more difficult we shall find it to obtain full satisfaction. It was therefore in my opinion high time for us, at the beginning of this session, to think of altering our method of treating: It was high time for us to think of putting ourselves in a condition to treat sword in hand; and for this reason, I was surprized to find, by the estimates for this ensuing year, that no more than 10,000 seamen were demanded for that service. I expected that 20,000 seamen at least would have been demanded; nay, if 30,000 had been demanded, I should have been for agreeing to it; because, I think even that number may be usefully employed. But as no greater number has been demanded, than what is usual in time of peace, I am from thence convinced, that our ministers have no thoughts of altering their method of treating; which I think it is our duty to oblige them to do; but we never can do it by agreeing to the amendment proposed by the hon. gentleman. Therefore, I hope the amendment will be disagreed to, in order that the question may be put, and agreed to, upon the several resolutions that were first proposed.

Mr. *Edward Wortley Montague* said:

Sir; As I do not pretend to know the present views of the Spanish court, nor the opinion they have of this nation, I shall not take upon me to determine which of the two propositions made to us, will be most effectual for procuring that remedy and relief the petitioners pray for. I am afraid neither of them will prove effectual: nay, I doubt much, if an order or resolution for 20,000 seamen for the service of the ensuing year, or even the fitting out a formidable squadron, with fireships,

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bomb-ketches, and all other utensils of war, would procure such a satisfaction or security from that nation, as we ought to insist on; for they have of late seen us fit out so many expensive and hostile-like squadrons, without any hostile intention, that, I believe, they will not now think we are in earnest, till they not only see our squadrons, but feel the effects of the orders that have been given to such squadrons. I believe a British squadron sent into the Mediterranean, and another into the West-Indies, with such orders as that British squadron had which was sent into the Mediterranean in the year 1718, would soon make them feel the effects of British resentment; and, would prove more effectual than any resolution now proposed, or any resolution we can come to.

But, Sir, if this nation should be put to any such expence, by the obstinacy of the Spanish court, I hope that expence will be added to the other demands we have upon that nation; for whatever man or nation refuses to satisfy a just demand, ought to be loaded with the costs and charges, which the other party is necessarily put to, in recovering what is due to him. Therefore I hope I shall never hear any gentleman in this House pretend to charge that expence upon this nation as a new debt; nor will it, I hope, prevent our paying off any part of the old.

I must confess, Sir, that I believe the present conjuncture of affairs in Europe to be a very unfavourable one for this nation; and, I believe so, because I find the honourable gentleman, who proposed the amendment, so much afraid of our doing any thing that may tend to involve the nation in a war with Spain. Those fears must either proceed from a consciousness of the bad state of affairs abroad, or, from a consciousness of the weakness of this nation, when compared with the superior power of the kingdom of Spain; for, I am sure, no gentleman that knows him, can suppose them to proceed from any natural pusillanimity of his own.

Now, Sir, as neither he, nor any man else, can suppose the power of Spain any way superior to the power of this nation; therefore, his fears must proceed from his being conscious, that the present conjuncture of affairs in Europe is not a favourable one for us; and, as I must suppose, from the station he is in, that he is fully apprised how affairs stand abroad; therefore, upon the credit of his judgment, I believe they are at present in a situation very unlucky for this nation; but this is so far from being a reason for our not coming to vigorous resolutions, that I think it a good reason for our coming to more vigorous resolutions, and resolutions of a more domestic nature, than any yet proposed; for the affairs of Europe can never be brought into a bad situation for us, without some mismanagement of our own; and if we are, by our own mismanagement, brought into such difficulties, that we must suffer the most cruel usage, without daring to shew a proper resentment, I do not think it would be prudent in us, who are the representatives of the people, I do not think it would be consistent with the duty we owe to our sovereign, to trust entirely, for our deliverance, to those who had, by their blindness, ignorance or wickedness, led us into the mire.

What reasons the Spaniards may have for treating us in such a manner, or what reasons we may have for suffering such treatment, and for suffering it so long, I do not know; but to me, Sir, the two nations seem to have entirely changed conditions since the year 1667. As I have had a particular opportunity, for making myself acquainted with the transactions between Spain and us about that time, I must let you know, Sir, that at the time of settling the treaty, which was that year concluded between the two nations, and for some time before, we treated the Spaniards in the same manner, in which, I believe, they now treat us. Our ships in the American seas, under some pretence or other, plundered or made prize of almost every Spanish ship they met with in those seas. The Spaniards justly complained of this treatment, and, by their minister here, presented several memorials to our court upon the subject. Our court did not pretend to justify such depredations, but pretended ignorance, and that they would order satisfaction as soon as the complaints could be enquired into. In the mean time, to keep the Spaniards easy, and to amuse their court, orders were issued to our governors, and to the commanders of our ships of war, in the West Indies, expressly enjoining them to forbear all such depredations or hostilities for the future. These orders were shewn to the Spanish minister here, and were sent to our respective governors, and commanders of ships in the West Indies; but at the same time private letters were dispatched to those governors and commanders, not to regard the orders sent

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them, but to follow such orders, as they should from time to time receive from our governor of Jamaica; so that the depredations were continued, notwithstanding the orders of our court to the contrary. I believe, if the court of Spain now sends any orders to the West Indies, they play the same game upon us; but the difference is, that our treating them in this manner, continued but a very short while, and they were in no condition to resent the injury; whereas their treating of us in this manner, has continued ten times as long, notwithstanding our being, the whole time, in a condition to revenge ourselves.

This, Sir, is a circumstance which very much alters the case; and, since we have so long made use of our persuasive power in vain, I think it is high time for us to begin to think of making use of our compulsive power, and to take proper measures for that purpose; for, let the present conjuncture of affairs in Europe be never so unfavourable, I am certain, that, by prudence and good conduct, we may very soon bring about such an alteration in the affairs of Europe, as will furnish us with a favourable one. As to the two propositions now before us, if you proceed no farther, I am easy, Sir, about which of them may be agreed to; but, as the resolution the honourable gentleman has by his amendment proposed, contains nothing more than what was in the resolutions this House has formerly come to upon the same subject; and, as neither of those resolutions has had any effect, I am sure the resolution he has proposed can have none; and therefore, I cannot agree to it. Then, Sir, with regard to the resolutions first proposed, as I do not know, but they may have some effect, and especially, as I hope they will be followed by some other resolutions of a different nature, I am therefore for agreeing to them; and for this reason, shall give my negative to the amendment.

The question upon the Amendment being put, it was carried without a division.*

March 30. Mr. Alderman Perry reported the said Resolution to the House; upon which sir John Barnard, Mr. Pulteney, sir Wm. Windham, and several other members were for re-committing it, and a debate ensued; but the question for re-committing the resolution being put, the same was carried in the negative by 224 against 169.

The same day, upon a motion of Mr. Alderman Perry from the said Committee, it was resolved, "That an humble Address be presented to his Majesty, humbly beseeching his Majesty, to use his royal endeavours with his Catholic majesty, to obtain effectual relief for his injured subjects, and to convince the court of Spain, that how desirous soever his Majesty may be to preserve a good correspondence and amity betwixt the two crowns (which can only subsist by a strict observance of their mutual treaties, and a just regard to the rights and privileges belonging to each other) his Majesty can no longer suffer such constant and repeated insults and injuries to be carried on, to the dishonour of his crown, and to the ruin of his trading subjects; and to assure his Majesty, that in case his royal and friendly instances for procuring justice, and for the future security of that navigation and commerce, which his people have an undoubted right to by treaties and the law of nations, shall not be able to procure, from the equity and friendship of the king of Spain, such satisfaction as his Majesty may reasonably expect from a good and faithful ally, this House will effectually support his Majesty in taking such measures, as honour and justice shall make it necessary for his Majesty to pursue."

Resolved, That the said Address be presented to his Majesty by the whole House.

Ordered, That the aforesaid Resolution of the House, be humbly laid before his Majesty at the said time with their said Address.

April 7. The Speaker reported that the House attended his Majesty yesterday with their Resolution and Address of the 30th of March last; to which his Majesty was pleased to give this most gracious Answer, viz.

"Gentlemen,

"I am fully sensible of the many and unwarrantable depredations committed by

* "The great object of the minister in moving his Amendment, was to prevent any mention of not searching ships, which he well knew would never be agreed to by Spain. But he had no reason to boast of his victory: for on the 2nd of May the House of Lords, after a long debate, voted Resolutions much stronger than those which passed the Commons; and what rendered this circumstance more extraordinary was, that the ministerial party seemed to have almost adopted the arguments of the opposition, and to have employed all the violent expressions of those who wished to bring on a war." Coxe's Walpole.

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the Spaniards; and you may be assured, I will make use of the most proper and effectual means that are in my power, to procure justice and satisfaction to my injured subjects, and for the future security of their trade and navigation. I can make no doubt, but you will support me, with cheerfulness, in all such measures, as, in pursuance of your advice, I may be necessitated to take, for the honour of my crown and kingdoms, and the rights of my people."

DEBATE IN THE LORDS ON THE DEPREDATIONS OF THE SPANIARDS.*] May 2. The order of the day being read, for taking into consideration the several Papers laid before the House on this day sevennight, pursuant to their Lordships' addresses to his Majesty, in relation to the Depredations committed by the Spaniards on the British subjects in America; it was ordered, That the House be now put into a Committee, to take the said Papers into consideration; and that the same be referred to the said Committee. Accordingly the House was adjourned during pleasure, and put into a Committee thereupon; the lord Delawar being in the chair. After the necessary Examinations were over,*

* "Another debate upon the same subject passed in the House of Lords; but more solemn and much better supported on both sides. In the former, the debate ran upon distressing the minister; in the latter, upon securing the subject. The Commons went upon facts, the Lords upon principles, which implied all the facts, and many more, than those contained in Mr. Pulteney's Resolutions. The matter had before been thoroughly debated at the council board; and the earl of Cholmondeley had prepared a set of Resolutions, which, though he was the son-in-law of the minister, had a much greater tendency to obtain satisfaction to the nation, than those debated in the House of Commons. Lord Carteret, who had thoroughly studied the question, in a very fine and an elaborate speech, shewed, that after the conclusion of the American treaty in 1670, none of the articles in 1667 are applicable to the American navigation by the English and Spaniards. He made a deduction so far back as the peace of Munster, to shew that the basis of all European commerce in America consisted in each nation reserving to itself an exclusive right to trade with its own colonies and plantations there; and that, therefore, no ship which was not actually in the ports and harbours of Spain, could be supposed either searchable or seizable by the Spaniards. He proved to demonstration, that all the modes of visiting and searching mentioned and prescribed by the treaty of 1667, was applicable to the European navigation alone, and not to the American; 'because,' said he, 'that very treaty takes it for granted, that no trade between the Spaniards and the English can be carried on there, and consequently there can be no object of search, unless the ships of one power shall be found actually trading within the ports and harbours of the other.' He illustrated this doctrine by the practice of the French and the Dutch, who had possessions in America, and who stuck to the same exclusive privileges; and he shewed there could not be a shadow of a pretext for a Spanish vessel to stop an English one in the open sea. As to the claim the Spaniards made of stopping ships within a certain space from the shore, he proved it to be unjust and groundless; because, in a coast so extensive, so uncertain, and so little known as that of America, it was often impossible for British subjects to navigate their ships so, as to prevent their being sometimes forced by squalls and currents, and sometimes to know in what part of the world they were, to prevent their making land, and often coming within the distance which the Spaniards pretended gave them a right to seize them. His lordship enforced his arguments with so much clearness, that very little debate happened; and an Address to his Majesty was agreed upon." Tindal.

* *The following Report of this Debate is taken from the* MS. *of* ARCHBISHOP SECKER.

May 2. Debate concerning the Right of Navigating the American Seas.

Cholmondeley. Motion.

Carteret. All depends upon these words, No search. In the treaty of 1667, the Crown of Spain grants all that is granted to Holland in the treaty of Munster 1648, as fully as if it were inserted. Now, the 5th Article of that treaty is, That navigation shall be maintained in conformity to the grants made or to be made: the 6th, relating to subjects in the West Indies, is, that each shall abstain from commerce with the harbours and castles of the other party: The 23rd, that neither is to remain in the harbours of the other without leave. The treaty of 1670 confirms our possessions, but gives nothing new. The king of Spain hath nothing more to say to our navigating to our own territories in America, than to Ireland. Each ship entering the ports of the other may be confiscated, but there is no ground of search; no variation of these treaties is made by any subsequent treaty but the grant of the Assiento.—Now, the South Sea Ship may be searched and measured, because they have commerce; but others not; other nations have stipulated that we shall not trade with America. We all stand on the same bottom, and the French will not condemn us for refusing a search, for then they must condemn themselves. The Dutch have not enough of their

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The Earl of *Cholmondeley* stood up, and spoke to the following effect:

My Lords; Your lordships are, no doubt, fully apprized of the important reasons for which you are this day summoned to attend, and of the necessity which our duty and honour lay us under, to testify on this occasion our resentment of the insults offered to the dignity of the crown, and the injuries done to our plundered merchants; I beg leave therefore, without any introduction, to enter into an explanation of such particulars as, I think, ought to serve as the foundation of some resolutions, which I shall take the liberty to lay before your lordships, and to which I humbly hope your lordships will concur.

My Lords, I shall divide what I have to say on this head into three parts, each part relating to one of the said resolutions; and I hope your lordships will favour me with your indulgence. If, after having communicated my sentiments to your lordships, any lord shall think fit to lay before you another set of resolutions, or to make objections, or offer amendments to mine, I shall cheerfully concur with what the wisdom of the House shall determine.

That I may proceed with the greater perspicuity, it will be necessary for me, my Lords, to enter into a disquisition of the particular treaties upon which our right to navigation in America is founded; that we may be able to ascertain the right upon which we claim a free commerce in that part of the world, and have an opportunity of discovering how unjustifiable these pretences are, upon which the Spaniards have insulted our merchants, and invaded their property.

There is no doubt, my Lords, but that the law of nations gave the Spaniards a right to a large part of America: their title was founded upon their right of discovery, prior possession and conquest. But the ambition of that people pushed them on to claim a right to all America exclusive of other nations; and this right, my Lords, they founded upon a title justly disowned by us, which was, that of a grant from the pope. This, my Lords, was the reason why they opposed the English in the settlements which they made there soon after the discovery of America, and to which we had as good a right by the law of nations, as the Spaniards had to their settlements. And to this it was owing, that for near a century after the Spaniards had received this grant from the pope, there was a continual war betwixt the English and Spaniards in America, while both powers were in peace with Europe. Nor, my Lords, was there any treaty, though we made several during that period, betwixt us and Spain, that ascertained the right of commerce and navigation, or fixed the bounds of the several territories possessed by the two crowns in America. The first treaty, my Lords, that was made for that effect, was concluded in the 20th year of the late king Charles 2, the articles of which are to be taken distributively, some of them relating to the trade

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own to maintain one-fifth of their Navigation; and therefore they must not suffer a search. Reprisals are good things in states that have but small navies; but what is the fleet of England kept for but to support the merchants. Guarda Costas are fitted out at private charges, and they must make prizes. Add to lord Cholmondeley's motion, That no goods carried from one part of the king's dominions to another shall be deemed contraband, and that any search is contrary to the law of nations and the treaties subsisting. I am not for a war, but if they disturb our navigation let us disturb theirs.

Hardwicke C. Some clauses of the treaty of 1667 cannot be referred to America, and therefore all must be construed according to the subject matter. This treaty hath reference to that of Munster. The treaty of 1670 ascertained what was before expressed by reference. There is a clause in the end of this to preserve the liberty of Navigation, but with a proviso, That nothing be done contrary to the genuine sense of the treaty. We have other rights than to navigate to our own territories. We claim a right to cut logwood in the Bay of Campechey. By Art. 14 of 1667, there are provisions all shewing sea letters and those of lading to see whether there be contraband goods. Contraband goods are where two nations are at war, and a third at peace with both carries warlike stores to either. In this case the law of nations allows ships to be searched.

Carteret. We have no right to carry any thing to the French, Dutch or Spanish ports in America, whether they be at war or at peace with each other. I hope the administration will support our claim to cut logwood. If we submit to be searched, we must insist that the French be searched too. It is doubtful whether a trade to the Spanish West Indies would be useful to us. For, of consequence, they and all nations must trade with our West Indies.

Bathurst. The 14th and 15th Articles of 1667 relate only to Europe, for the 16th relates only to Europe: according to the explanation made by Keen, the Spaniards might have taken the arms out of our ships.

I think no Division.

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of Europe, and others to that of America. But, my Lords, there is no specification in that treaty, by which any of its articles, except the eighth, can be construed as relating to our commerce, either in Europe or America, any other way than as the terms of the particular articles therein contained agree with the stipulations which regulate the commerce betwixt the two crowns in Europe. Therefore, my Lords, some of the articles of that treaty, such as the 2nd, the 4th and the 7th, seem chiefly applicable to the trade betwixt England and Old Spain in Europe: by the last mentioned article it is stipulated, "That the subjects of the two crowns shall reciprocally pass freely and securely by sea, by land and by rivers, into the countries, confines, territories, &c. where trading and commerce have hitherto used to be; and that they shall trade, buy and sell, as freely and securely as the inhabitants of the respective places, whether of their own nation, or any other, who are there, or who come there, or who have liberty to trade there."

These words, my Lords, we must own, are not applicable to the commerce of America, unless we can prove that commerce and trading had been used betwixt the English and the Spaniards, and that the natives of England had a right to settle and to carry on a commerce in the Spanish West Indies. But, my Lords, though we should grant to the Spanish minister what is contained in his answer to our minister's memorial; that this and the other articles, I have mentioned, have no regard to the navigation and commerce in America; yet the regulations to which that crown is obliged to conform by the articles of the same treaty, and which are evidently calculated for the navigation of America as well as Europe, give us very justifiable grounds for insisting that the subjects of his Catholic majesty acted in direct violation of that treaty; because their guarda costas have arbitrarily attacked, seized and plundered the ships and cargoes of many of our merchants. Not contented with this, my Lords, they have proceeded to violences that are unjustifiable even in a time of actual war between two nations. This last proceeding, my Lords, is a violation of the law of nature and nations, as the former is of the particular treaties betwixt the two crowns. To prove this I shall only beg leave to observe, that by the treaty I have now mentioned, no search of our ships is authorized; at least, no such search as is practised by the Spanish guarda costas. For there is but one article, which is the 14th, in all that treaty, that can give the least colour to a search of any kind, and in that very article there is a prohibition that entirely destroys all their pretences to such a search as they insist upon. For, my Lords, it is there expressly stipulated, that no guarda costa, or ship of war belonging to Spain, shall come within cannon shot of an English ship, if she meets the latter at sea, but shall (give me leave to use the words of the treaty) "send their long-boat or pinnace to the English ship with two or three men on board, to whom the master or owner shall shew his passports and sea-letters, whereby not only the ship's lading, but the place to which she belongs, and as well the master's and owner's name, as the name of the ship may appear, by which means the quality of the ship and her master or owner will be sufficiently known, as also the commodities she carries, whether they be contraband or not; to the which passports and sea-letters, entire faith and credit shall be given."

Thus, my Lords, we see that, by this treaty, there is not the least foundation upon which the Spaniards can lay their claim to a search in the manner by them practised. Nay we see, that supposing an English ship had prohibited goods on board, yet the master of the Spanish guarda costa has no right to rummage his hold, or to ransack the vessel; for the fact of having or not having prohibited goods on board, is to be taken upon an inspection of the English master's passes and sea-letters. My Lords, the authority of these passports and sea-letters, and the proof of their being genuine, must depend upon the bare word and credit of the master of the English vessel; and after such passports and letters are produced and averred by the master of the English ship to be genuine, the ship is to proceed unmolested on her voyage, because, as your Lordships see, by the latter part of this article, "entire credit and faith shall be given to such passports and letters, when produced." But though by these letters and passports it should appear that prohibited goods are on board an English ship, though it should appear that such a ship is bound to, or is sailing from a port at enmity with Spain, and has goods on board, that, in the sense prescribed by the articles of the same treaty, are to be deemed contraband; yet even these cir-

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cumstances can never justify the confiscation of the whole ship and cargo, much less any abuse of the officers and crew of such a ship, or forcing them into a long and dismal captivity; because, by the fifteenth article of the same treaty, "these prohibited goods only are to be seized and confiscated, and not the other goods; neither shall the delinquent incur any other punishment, except he carry out from the dominions of Spain any gold or silver wrought or unwrought." And the twenty-third article, which fixes the nature of contraband goods, and to what sense that term shall be restrained, expressly says, "that if it shall appear that such goods are on board an English ship, such goods only shall be taken out and confiscated; but for this reason, the ship and other freed and allowed commodities which shall be found therein, shall in no ways be either seized or confiscated."

From the consideration, my Lords, of these articles, we see how repugnant the practice of the Spaniards, in searching and confiscating our ships, is to that treaty concluded betwixt Spain and us, in the 20th year of king Charles 2, and from the same consideration it may be fairly inferred, that the subjects of Great Britain have a right to navigate in those and all other seas, without being subject to any other search, than the visitation of two or three persons put on board the pinnace or long-boat of the Spanish ship, who have a right to know no more about the ship's course or her cargo, than what they can gather from the papers exhibited by the captain of the English ship. Their seizing, therefore, or making prize of any ships belonging to his Majesty's subjects, for having on board such of the said goods as are, in the sense of the said treaty, deemed contraband, is a violation of the good understanding that ought to subsist betwixt the two crowns. Thus much, my Lords, I have said from a supposition, that the articles I have last mentioned of this treaty, have a relation to the navigation in America as well as to that in Europe; though this, my Lords, is a matter which I believe the Spaniards will make great difficulties of admitting, as appears from the papers that have passed betwixt his Majesty's and the Spanish ministers on that head, and which lie upon our table. But there is one article which effectually destroys any such pretences of the Spanish ministers. The 6th article, my Lords, of the treaty I have so often mentioned, grants to the subjects of England the same rights, privileges, and immunities of commerce and navigation, as were granted to the subjects of the United Provinces by the treaty of Munster, which was concluded twenty years before the other treaty which I have mentioned. So that, my Lords, we have no more to do, even by the confession of the Spaniards themselves, but to have recourse to the article of the treaty of Munster, which regulates the commerce betwixt the subjects of the United Provinces, and those of Spain in America. By this article, my Lords, we shall find that we have as full and ample right to the navigation of the American seas, as has yet been insisted on in any of our memorials, or as has been practised by those ships, which the Spaniards have seized upon and confiscated as lawful prizes.

But, my Lords, as this treaty concluded betwixt Spain and England was found liable to many altercations, it was thought necessary, by the two crowns, three years after, to make a more particular treaty, which should be entirely confined to the navigation in America. This treaty, my Lords, has for its title, "A Treaty of Commerce and Navigation for accommodating differences, and preventing depredations betwixt the subjects of Great Britain, and Spain in America;" and though not repugnant to, is far more definitive and explicit than the treaty concluded three years before, which I have so often mentioned to your lordships. And, my Lords, though, by this latter treaty, we seem to have given up some of the rights of commerce, which it would appear we enjoyed when the former treaty was concluded; yet, still, those articles of the former treaty which related in general to our right of commerce and navigation upon those seas, must be understood to be fully in force, except in the cases which are specified by the latter treaty, and which must be understood as relating to the navigation in America. The most material difference, my Lords, which is betwixt this latter and the former treaty, is in the mutual exclusion which both crowns have given to their respective subjects from trading to each other's ports, harbours, and dominions; which exclusion, my Lords, is contained in the 8th Article of the said treaty in these words, "That the subjects of the two contracting powers, shall, respectively, forbear and abstain from sailing to, and trafficing in the ports

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and havens which have fortifications, castles, or warehouses, or in other places possessed by the other party." This, my Lords, is the great and material difference betwixt these two treaties, and seems to have been concerted by the ministers of the two contracting powers, as the only means of putting an end to the numberless differences betwixt their respective subjects, from the nature of the prohibited goods, and the indefinite sense of the former treaty. But, my Lords, though by this article we are debarred from sailing and trafficing in the Spanish settlements, and they to the English; yet we are not debarred from the common rights of navigation and commerce upon these seas, we are not debarred from sailing to the places not possessed by the Spaniards; far less are we debarred from sailing betwixt Great Britain and any of our colonies in America, or from carrying on a free commerce there between one of our own settlements and another. This article, my Lords, can never be construed as giving to his Catholic Majesty, the sovereignty of these seas, exclusive of us and all other nations. This, my Lords, is a sovereignty which our crown has never yet admitted of, as belonging to the crown of Spain, and I dare say never will. Yet, my Lords, without such a sovereignty, the Spaniards can never have the least pretence for their depredations. But, to prove to your lordships that our crown neither granted such a sovereignty, nor the crown of Spain insisted upon any such, when this treaty was made, I shall beg leave to read the 15th Article of that treaty. "This treaty shall no way derogate from any pre-eminence, right, or signiory, which either the one or the other of the contracting parties have in the seas, straits, or fresh waters of America; and that they shall have and retain the same in as full and ample a manner as of right ought to belong to them. But be it however understood, that the freedom of navigation ought not to be interrupted, when there is nothing committed contrary to the true sense and meaning of this treaty."

By this Article, my Lords, we see the rights of navigation upon these seas, so far as they were consistent with the stipulations of the treaty made three years before, and so far as they were according to the sense and meaning of the treaty then made; I say, my Lords, we see these rights are confirmed in as full and explicit a manner as words could make them. But, my Lords, there is still a stronger proof of our rights of navigation on these seas, and of the injustice of the Spanish pretensions, contained in the 10th Article of this treaty, which is expressed in these words: "It is is also agreed, that, in case the subjects and inhabitants belonging to either of the two allies, and their ships, whether they be men of war or merchant ships, and such as belong to private persons, should at any time be forced by storm, pursuit of pirates or enemies, or by any other accident whatsoever, to retire and enter into any of the rivers, creeks, bays, havens, roads, or ports belonging to the other in America, in order to have protection and refuge, they shall be received and treated there with all manner of humanity and civility, and have all the protection and assistance of friends, and that they shall be allowed to refresh themselves, and be at liberty to buy provisions and other necessaries, whether it be for the support of their persons, or for repairing their ships and conveniency of their voyage, and that they shall no manner of way be retarded or hindered to go out of the said ports or roads, but they may do it whenever they have a mind to do it without any lett or molestation."

Therefore, if a master of an English ship shall, under any frivolous pretences, continue longer in that harbour than the time prescribed by the Spanish governor for his departure, the said governor may make lawful prize of that ship. This, my Lords, is an article that never could have been made, if it was the sense of either of the contracting powers, that the ships of either should be absolutely prohibited from navigating in these seas. By admitting of the possibility that an English vessel may be obliged to put into a Spanish port, we may with the greatest justice conclude, that there is nothing in that treaty which could extend to a prohibition of the English ships sailing by, and even within sight of their settlements, forts, and harbours. So that, my Lords, the prohibition in the 8th Article can only relate to an actual commerce in their ports and harbours, but not to a prohibition of the English ships sailing from one of our colonies to another. The only objection, therefore, my Lords, that the Spaniards can possibly raise, must be founded, not upon a right of navigation, but upon a right of possession. They may indeed pretend, that our claim to some of our possessions there is ill

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founded, and inconsistent with their rights; but, my Lords, in answer to that, we have a positive concession from Spain of all lands, countries, &c. which we possessed at the time of the conclusion of that treaty. The words of the 7th Article are so express to this purpose, that I cannot help reading them to your lordships. Here we see it stipulated, "That the king of Great Britain, his heirs and successors, shall have, hold, keep, and always possess in full right of sovereignty, signiory, possession, and propriety, all the lands, countries, islands, colonies, and other places, be they what they will, lying and situate in America, which the said king of Great Britain and his subjects now hold and possess; insomuch that they neither can nor ought hereafter to be contested or called in question, upon any account, or under any pretence whatever."

These words, my Lords, I think are sufficient to remove all objections raised by the Spaniards, as to our possessions in the province of Jucatan, and the right of cutting logwood in the bay of Campeachy, unless they can prove that we were not in possession of any property in either of these two places when this treaty was concluded, which, my Lords, they never can do. I must likewise, by the by, observe, that these words are sufficient to remove the scruples which some amongst ourselves have entertained, as to the confirmation of our right to the island of Jamaica. It is true, my Lords, that the Spaniards at that time could not be brought to make a positive and a direct acknowledgment of our right to that island, and I think our ministers did wisely, in not insisting upon it: because this general concession in effect secures it as well to the nation, as it could have been, had they even granted a direct and express acknowledgment of our right of possession. Besides, my Lords, had we accepted of particular, instead of general, acknowledgments, every foot of land, not specified in the treaty, had become liable to be disputed. For, my Lords, had we insisted upon such a security for one of our possessions, we should thereby have made a tacit acknowledgment, that all the possessions we held by virtue of the same right required the same particular security, or that the right itself was invalid. What I have said, my Lords, being in my opinion sufficient to justify the first resolution, which I shall take the liberty to lay before your lordships, I shall now proceed to another consideration.

It is evident, my Lords, from the situation of our island, and the genius of our people, that the glory and strength of our country depend upon the security and extent of our navigation; and that an infringement of the laws relating to our commerce, is wounding us in a very tender and sensible part. Therefore, if the Spaniards have committed insults of that kind, I think we cannot do a thing more becoming the honour and dignity of this House, than to come to a resolution on this head, and to lay it before our sovereign, who, from the tender regard his Majesty has always expressed for the rights of his subjects, we have no reason to doubt, will take care to procure us ample satisfaction for past, and security from future injuries. I hope I have already proved to your lordships, that the subjects of Great Britain have a right to navigate and trade betwixt any one of our own settlements and another. I have likewise endeavoured to prove, that the Spaniards can have no real claim, from any treaty betwixt us and them, to justify such a search as is by them practised. I come now to shew your lordships, that the pretences upon which these searches were made, the cargoes of our ships confiscated, together with the ships themselves, and the British subjects imprisoned and barbarously treated, being unjust and groundless, consequently our rights to navigation and commerce have been unwarrantably infringed and interrupted. To do this to your lordships' satisfaction, I need but have recourse to the papers that lie upon your lordships' table; where we shall find that most of the ships were proceeding on their voyages in a direct line, either from England to some one or other of our settlements in America, from one of these settlements to England, or from one to another of these settlements; in all which cases, my Lords, it was unlawful for the Spaniards to give them any interruption, far less to make them prizes. The other ships which were taken in what the Spaniards call their latitude, were forced into it by some of the causes specified in the first article of the treaty concluded in the 23d year of king Charles 2, and therefore, my Lords, could with as little appearance of justice be confiscated. But there is one circumstance worthy of the attention of the legislature, and which, if admitted to the Spaniards as a good plea, may go far to justify the excesses and cruelties they have committed. And that, my Lords, is a pretence, that their finding on board an

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English ship any Spanish silver, nay so much as one piece, gives them a right to confiscate the ship wherein it shall be found; and that they have the same right of confiscation, if any goods that are the staple commodities of the Spanish settlements in America are found on board any vessel. But, my Lords, we ought to be very cautious how we admit of this claim. We are to consider, that it is next to impossible, that a ship trading betwixt two places, that have daily and hourly intercourse with the Spanish settlements, can avoid having on board some Spanish commodity. There is no master of a vessel, be his caution ever so great with respect to himself, who can answer for his crew; and by these means there is no master of a ship trading to these parts, who may not be ruined by the avarice, or perhaps ignorance, of the meanest sailor he has on board. Besides, my Lords, the daily commerce carried on betwixt the Spanish settlements and ours in America, introduces not only Spanish commodities into our colonies, but even Spanish gold and silver; it very often happens too, that the governors of their settlements send to our settlements Spanish specie in order to purchase provisions and other necessaries. And, my Lords, notwithstanding the prohibition contained in the eighth article of the treaty last mentioned, our South Sea Company have the liberty of sending an annual ship, and of carrying on a lawful commerce with their settlements; which must occasion a very large circulation of their commodities and specie, both in our own plantations and here at home.

Hence it is evident, my Lords, that it is impossible, or next to impossible, for an English ship trading in these parts to keep so free from Spanish commodities or specie as (should we admit this plea of the Spaniards to be just) not to be liable to confiscation. But, says the Spanish court, your ships are here taken in latitudes which do not lie in a direct line, either betwixt Great Britain and America, or betwixt any one of your settlements in America and another. My Lords, admitting that to be the case, we still justly contend, that, unless they can prove a right to these seas exclusive of us, they can never make just prize of such ships. For as it is impossible to foresee the contingencies that may oblige a ship to depart from her direct course, so it is unjust to make her departing out of that course a lawful cause of confiscation: And it is equally unjust in the Spaniards to alledge, that they are the only judges of the course which a ship in such cases is to hold, and of the reasons that perhaps may oblige her to alter it. But, my Lords, it appears from the papers upon your table, that most, if not all our ships that have been seized by the Spaniards, were actually seized in the direct courses, either betwixt Great Britain and our own plantations in America, or from some one of our own plantations to another. The treatment of the sailors on board our ships thus seized, was as barbarous and inhuman, as the pretences for such seizures were unjust and groundless. The tedious forms of proceeding in the Spanish courts of judicature, rendered their captivity long and dismal; their want of knowledge in the language, and their being deprived at once of all their papers, took from them the means of making a proper defence, and what completed their misery was, that they were to be tried by a judge who had an evident interest in determining against them. And though at length they were acquitted, they must be still considerable losers by such an interruption of their commerce, and so great a loss of time. There is another thing, my Lords, we complain of, and is highly worthy your lordships' consideration; and that is, the pretensions of the Spaniards to seize our ships when any logwood is found in them. The cutting logwood in the Bay of Campeachy, is a right which, as we contend, we possessed when the treaty made in the 23d year of king Charles 2, was concluded, and consequently one of the rights secured to us in the seventh article in that treaty, which I have already read to your lordships. Accordingly, my Lords, twenty years ago, when the case of our merchants trading to America was laid before his late Majesty, his Majesty was pleased to remit this particular case, and many other points, to the consideration of the lords of trade and plantations; who after the fullest information they could get, gave it as their opinion in their report, "That the said American treaty (meaning that concluded in the 23d of king Charles 2,) did establish a right in the crown of Great Britain, to the Laguna de Terminos in the province of Jucatan, those places at that time of the treaty, and for some years before, being actually in the possession of the British subjects." The board of trade, my Lords, seems to have had the fuller authority for what they have reported, from the first article of the treaty of

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commerce concluded at Utrecht; where, after confirming this right, we read these remarkable words: "Without prejudice to any liberty or power which the subjects of Great Britain enjoyed, either through right, sufferance, or indulgence." So that, my Lords, without entering into a discussion upon what our right of cutting logwood in this bay of Campeachy was founded; if it can be proved, as at the time when this report was made, it might easily have been done, even by eye witnesses, that we were suffered or indulged in cutting logwood there, we have thereby acquired a right to the continuation of that indulgence or sufferance. My Lords, this part of the difference betwixt Spain and us, does not turn so much upon the right of navigation, as upon the right of possession; but it is a very valuable possession; for as logwood is an indispensable material in many of the common uses of life, it is in the power of any nation who has the sole privilege of cutting it, to make their neighbours pay for it what price they please, and consequently to impose a tax upon all nations who deal in that commodity. Hence, my Lords, we may justly conclude, that the Spaniards confiscating ships for their having logwood on board, is a violation both of our rights of possession, and of our rights of navigation. I shall, my Lords, now proceed to introduce the 3d resolution which I shall lay before your lordships, and which relates to the methods hitherto used by our government for procuring satisfaction for the depredations made upon our merchants, and for preventing the like for the future, which applications have hitherto proved ineffectual.

My Lords, there is no doubt but that the trade we enjoy with Spain and Portugal (which last trade, in case of a rupture with Spain, must be greatly interrupted) is very beneficial to Great Britain. For which reason his Majesty has omitted nothing that lay within his royal endeavours to procure satisfaction to his injured subjects for their losses, so far as they came to his knowledge, and to prevent the like for the future: and this by the most proper measures. The British resident at that court, as appears from extracts of his memorials, which lie before your lordships, has made the strongest and warmest instances for obtaining the desired end, but has not been yet able to prevail. The king of Spain indeed gave orders, that some of the ships reclaimed in the memorials of our resident at his court, particularly the ship James, should be restored. But these orders have either been entirely eluded, by the Spanish Governors in America, or obeyed in such a manner, as that a restitution made to the sufferers has scarce indemnified them, either for the expences they have been at in their solicitations, or for their loss of time, or for the interruption of their business. But as it would be unjust to impute this delay to the want of inclination in the king of Spain to give us satisfaction, our sovereign, from a regard to the interest of our own merchants, has not thought proper as yet to take any measures to interrupt the good understanding betwixt the two crowns. Therefore, my Lords, I humbly think we cannot give a greater instance of our duty to his Majesty, as well as of our concern for his injured subjects, than to give him the strongest and most sincere assurances of a zealous and cheerful concurrence in all such measures as shall become necessary for the support of his Majesty's honour, the preservation of our navigation and commerce, and the common good of this kingdom; And therefore I humbly move that we may come to the following resolutions;

1. "Resolved, That the subjects of the crown of Great Britain have a clear and undoubted right to navigate in the American seas, to and from any part of his Majesty's dominions; and for carrying on such trade and commerce as they are justly entitled to in America; and likewise to carry all sorts of goods and merchandizes, or effects, from one part of his Majesty's dominions to any other part thereof; and that no goods being so carried are, by any treaty subsisting between the crowns of Great Britain and Spain, to be deemed or taken as contraband or prohibited goods.

2. "That it appears to this House, that, as well before as since the execution of the treaty of Seville on the part of Great Britain, divers ships and vessels, with their cargoes belonging to British subjects, have been violently seized and confiscated by the Spaniards, upon pretences altogether unjust and groundless; and that many of the sailors on board these ships have been injuriously and barbarously imprisoned and ill-treated; and that thereby the liberty of navigation and commerce, belonging to his Majesty's subjects by the law of nations, and by virtue of the treaties subsisting between the crowns of Great Britain and Spain, hath been unwarrantably in-

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fringed and interrupted, to the great loss and damage of our merchants, and in direct violation of the said treaties.

3. "That it appears to this House, that frequent applications have been made, on the part of his Majesty, to the court of Spain, in a manner the most agreeable to the treaties, and to the peace and friendship subsisting betwixt the two crowns, for redressing the notorious abuses and grievances before-mentioned, and preventing the like for the future, and for obtaining adequate satisfaction to his injured subjects; which, in the event, have proved entirely fruitless and of no effect."

The Lord *Carteret* rose and said:

My Lords; The noble lord has been pleased to give the House a very accurate, and I believe a very just, detail of the treaties upon which our right to a free navigation in the American sea is founded. His lordship has shewed us how far these rights have been encroached on, and what methods have been used by his Majesty for procuring redress; but, my Lords, I must beg leave to observe, that our knowing these rights is to no purpose, unless we fall upon a speedy and an effectual way to secure them; and I humbly conceive, our agreeing to the resolutions presented to the House by the noble lord can never answer that end. There is one point in dispute, my Lords, betwixt us and the Spaniards, which, if adjusted, must either leave us in the quiet and uninterrupted exercise of navigation and commerce, or must leave to Spain an absolute and uncontroulable sovereignty of these seas. The Spanish court says, "We have a right to search your ships;" but "No search" are the words that echo from shore to shore of this island. This, my Lords, is what we ought to insist upon; for without this concession, all other concessions from the Spanish court are to no purpose.

The treaty commonly called the American Treaty, which was concluded in the 22nd year of king Charles 2, was a treaty separate from the treaty concluded three years before; nor is there one word of it that has a retrospect to that treaty; and, my Lords, the confounding these two treaties together is the reason why the Spanish ministers and ours seem to be equally in the dark, with regard to the affair in question. But, my Lords, we need only look into the eighth Article of that treaty which the noble lord has been pleased to read, and we shall find that there can be no such thing as contraband goods betwixt us and the Spaniards; because there can be no such thing as commerce carried on betwixt our subjects and theirs, and consequently there cannot be the least shadow of a pretence to a search on that account; and when that pretence is cut off, all the subject of difference betwixt us and that nation is done away; for it is impossible for us to have any other difference. My Lords, this is a point so plain, that it is to me amazing that our ministers at the Spanish Court should omit it in their memorials, that the Spaniards themselves should overlook it, and that our merchants in the many applications they have made, to the King, to the council, and to Parliament, have never once mentioned it. By the first of the two treaties made in the 20th and 23rd of the reign of Charles 2, the regulations of commerce betwixt us and Spain, being principally intended to settle the trade betwixt Old Spain and England, the Spaniards no doubt have a right to search any ship which they find upon their coasts, and which they suspect of carrying prohibited goods, because every nation has an undoubted right to lay what prohibitions they please upon the commodities produced by their own country, and likewise on the commodities imported to their own country, unless by some particular stipulations with other nations they are bound up from making such prohibition. They are likewise at liberty to prohibit such and such goods from being imported or exported on such and such bottoms. But, my Lords, these prohibitions of particular commodities always pre-suppose that it is lawful for this, or any other nation, to trade with that nation in other commodities. For this reason, my Lords, every nation has an undoubted right to prevent every infringement in this regulation of her commerce, and consequently to search all suspected ships whom she shall find on her coasts. But, my Lords, when two nations are at peace together, and amicably agree that they shall have no trade, no intercourse, no commerce with one another, to suppose that either of these nations hath a right to search the ships of the other, is to suppose what is inconsistent with common sense. For, from whence have you this right? From any particular stipulation betwixt you and us? No: No such thing can be pretended. Does it arise from a suspicion that we break in upon the

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laws of commerce regulated among yourselves? No, that would be absurd; because we have no access to your country, and therefore can never either import or export any commodity that is prohibited by your laws. Again, does this right to search our ships obtain from custom or sufferance? That we deny; nor can you prove that you ever enjoyed any such privilege till you usurped it of late; and since you did usurp it, we have continually complained. At least, my Lords, the trading part of our nation has complained of it as an innovation and an encroachment upon the freedom of navigation and commerce: and, my Lords, if this is a point hitherto undetermined by any public act betwixt the Spaniards and us, this is the proper time for settling it; and I dare say, the thing is so plain and so reasonable in itself, if our minister at the Spanish Court shall represent it in the light in which I have already viewed it, the king of Spain will be of opinion that we have fallen upon the only and the true method of preserving a good understanding betwixt the two Crowns. For, give me leave to say it, our insisting that no search, upon any pretence whatsoever, be made, can never do any prejudice to the interests of the Spanish Court, it can never break in upon the regulations of their commerce, it can never violate any treaty subsisting between them and us, because we still allow the 8th Article, which is of the greatest importance, to be in full force; and our coming to a Resolution on this head is only saying, in other words: "We do not pretend to disturb you (the Spaniards) in putting these regulations in force, which you have a right to make with every nation with whom you trade: therefore we are willing you should enjoy all the advantages of the treaty made in the 19th year of king Charles 2, we are willing you shall enjoy the advantages of the treaty concluded three years after; we are willing you should enjoy a commerce with your own settlements in America, exclusive of us and all other nations. But because we are willing you should enjoy all these advantages, we must take care that they are not used to our detriment; we must take care that the trading part of our subjects be secured in the privileges to which they are entitled by treaties; and we must take care not to suffer so material a point to remain longer undetermined, especially as you seem to claim, as a right, what is founded neither upon common reason, the laws of nations, nor the particular treaties subsisting between the two Crowns." But, says the Court of Spain, (for, my Lords, I would not leave one shadow of an objection which they could raise, unanswered,) "How shall we prevent your carrying on a clandestine trade with our settlements? Or how can we discover when such a trade is carried on or not, but by searching your ships, and satisfying ourselves if any of our commodities are on board?" "Yes," answer we, "You may; seize them in your harbours, seize them in your ports; seize them in your towns and countries where they trade; if you seize them there, the grounds of your confiscation are good: for their very being there, unless for the reasons mentioned in the 10th Article, though they did not trade to the value of one shilling, makes their ships and cargoes your lawful prize. Our Crown never pretended to protect smugglers, and by agreeing to the 8th Article of this treaty, it in effect impowers you to do yourselves justice upon all who violate it. But we never can pretend to account for what our private subjects may do to your prejudice; it is your affair to look to that; only take care of it at a proper time, in a proper way, and in a proper place; and do not make the innocent suffer for the guilty: do not, because, perhaps, you yourselves have suffered by the practice of a few smugglers of our nation, make the fair trader liable for these practices, nor usurp a sovereignty of these seas exclusive of us." Thus, my Lords, we answer all the objections which the Spaniards can make on this head, and yet grant them all they can have the least shadow to claim, either by the law of nations or particular treaties. Let us therefore, my Lords, make such a resolution, let the Spaniards see that we intend to do both them and ourselves justice; and in that case, my Lords, I dare answer for it, we shall have no occasion for entering into a war: we shall have no occasion for prolonging or multiplying treaties; we shall have no occasion to put the nation to the expence of sending over commissioners for regulating our affairs of commerce; but if we do not come to such a resolution, we may, indeed, puzzle out a war; yet when that war is over, and when we have run two or three millions more into debt, unless we make this the main point, we shall find ourselves as far from our purpose as ever.

My Lords, the American treaty is a treaty which we did not grant to the

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Spaniards, but after many solicitations, and for very valuable considerations; it was granted, my Lords, in discharge of two millions of just debt, at that time due by the crown of England to that of Spain; and I could heartily wish that we could defray two millions of our national debt at present by granting such another treaty. It was looked upon at that time, my Lords, by the Spaniards, as the only means of securing to themselves the valuable advantages they reap from their possessions in America. They were therefore very well pleased, and, I believe very thankful for the concessions we had made; nor do we find one instance, my Lords, during the reigns of king Charles 2, king James 2, king William 3, or queen Anne, of any one ship being seized on these seas on pretence of having prohibited goods on board in time of peace. So that, my Lords, this claim of the Spaniards is of a very late date, and very probably trumped up to serve the interests of the owners of the guarda costas, who may have imposed on the court of Spain by misrepresentations of facts. For, give me leave to observe, my Lords, that these guarda costas do not belong immediately to the crown of Spain. No; sometimes they are fitted out by the merchants of Spain, sometimes by the Spanish inhabitants of America, and sometimes by the governors of their settlements there. Such a variety of interests combining to support them, it is no wonder, my Lords, if they have a strong interest at the Spanish court, whose ministers may be misled either by interest or ignorance to protect them. But if we should put it fairly to them: "Are you resolved to search every ship you meet with in these seas? Are you resolved to confiscate every ship which shall have on board any of your specie or commodities?" If they shall answer, No; the matter is so far adjusted betwixt us. But then, my Lords, it may be proper to add (and it is, to be sure, a natural consequence of this resolution) "If you can claim no just right, if it is founded neither upon treaties, nor allowed by practice, and if it was not the intention of the contracting powers when this treaty was made, that such a right should be inferred from any of its articles; by what authority, pray, have you exercised it so long? How are our subjects to be indemnified for the many depredations and violences they have suffered? Or how is the law of nations to be satisfied for these proceedings? If they were not authorized by your court, it must give the offender up to justice, and our merchants must be indemnified out of the effects of the delinquents. But if you cannot deny that they were protected by your court, it becomes a national concern, and your crown must indemnify us, let it seek its relief elsewhere." This, my Lords, is the common way of reasoning amongst men in matters of private property; I think it has always been a just way of reasoning, and I hope that it never will be neglected by princes in matters of public concern.

If the Spaniards, my Lords, should insist upon a right of searching all ships in general; if, contrary to our expectations, they should pay no regard to the law of nations or their own faith, yet still we shall gain this advantage, that we shall make it the common cause of all the nations in Europe who are possessed of one foot of ground in America. When France sees them make such a wild and unwarrantable claim, she will think it time for her to strike in; she will think that what is the case of Britain to-day, may be that of France to-morrow. The French, my Lords, as a people who subsist by trade, and who have reason to be jealous of every innovation that is introduced in it, will consider our cause as their own, and will look upon the success of this affair as what may one day determine the fate of their own commerce, both to their western and eastern settlements. For, my Lords, give me leave to observe, that this is a point that does not affect this particular branch of trade only, but it affects all the trade which is carried on betwixt any nation in Europe and their foreign settlements. For instance, my Lords, if we are more powerful in the East Indies than the Dutch, or the French, or any other European people who have settlements there, have we not as good a reason to insist upon a search of their ships, lest they should carry on a prohibited trade with our factories there? Have we not as good a right to make ourselves judges what courses their ships shall hold on these seas? Have we not as good a right to confiscate their ships and cargoes, as the Spaniards have to treat us in the same manner in America? My Lords, I should be glad to hear any argument that could be advanced against such a practice in one part of the world, that does not hold equally good in another part. But, my Lords, let us suppose that no such claim is made by any other

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nation, in any other place in the world, but by the Spaniards in America, what must the consequence of this demand of theirs be, with regard to the trade carried on there by other nations of Europe? We all know that the consumption of every people must be supplied, either by the product and manufactures of their own country, or by the commodities which they purchase from their neighbours. But, my Lords, when any of their neighbours are possessed of a commodity, which they think they could not be possessed of otherwise than by an illicit trade with their settlements, is that a just reason for searching, and arbitrarily confiscating that neighbour's ship? My Lords, this would set all the nations of Europe by the ears with one another. For no doubt the Dutch, the French, the Spaniards themselves living in America, are obliged to trade with one another there to supply themselves with the common necessaries of life; and it is a certain fact, that there is nothing more ordinary than for the Spanish governors in America to permit, to protect, and to pay British ships for importing into their settlements those commodities that enter into the common necessaries of life, without which their inhabitants must starve. For such is the genius of the Spaniards in America, so much are they over-run with luxury, ease and pride, supported by a great affluence of money, that they cannot apply themselves to the ordinary arts of life, as other people do, and for that reason they must purchase conveniencies and necessaries with money, or they must want them. So that, my Lords, in effect, this prohibition of trade, if strictly and literally enforced, must either prove the ruin of the inhabitants in these settlements, or produce a general revolt against the prince, who can be the only gainer by it; as it tends to prevent the exportation of specie into Europe any other way than by his register-ships, and consequently secures to him an indulto of 11 or 12 per cent. for all the specie thus imported. Were this claim of a right to search in the open seas, as asserted by Spain, allowed by other nations to be just, I should be glad to know by what means the Dutch could import one grain of sugar from America to Holland. A ship sails from their island of St. Eustache; a French guarda costa attacks and boards her; From whence did you sail? From St. Eustache. Whither are you bound? To Holland. With what are you loaded? Sugar. But, says the Frenchman, "St. Eustache does not produce one hogshead of sugar for its own use; far less is it able to export any: you must therefore have had it from Martinico, one of our islands. You are therefore concerned in an illicit trade, and as such we seize and confiscate your ship." This way of reasoning, my Lords, is just as good in the mouth of a Frenchman to a Dutchman, as in that of a Spaniard to an Englishman. Does not every man, who has the least concern in commerce, know what vast quantities of Spanish gold and silver there are in England? and if a master of a vessel, or a passenger, or a merchant, or a sailor, should by chance carry from England one single piece of that specie, if we allow this claim of the Spaniards to be good, he himself, his crew, his ship and his cargo, may be lawfully seized, the one to be confiscated, and the other imprisoned, though not one person on board had ever set his foot on American ground, or had ever been within sight of its shores.

The same thing, my Lords, may be said with regard to ships trading from one of our own colonies to another. A ship sails from England to New York, she disposes of her cargo there in a fair way of trade, and receives payment for a great part of it in Spanish money: from New York she coasts along southward to Pensilvania, Virginia and Carolina, all the way only touching at our own settlements: why, my Lords, it is possible, before she comes the length of Jamaica, that most, nay all her cargo, may be made up of Spanish money or commodities, and yet she all this time in a fair and lawful trade; and to make such a ship confiscable, I humbly conceive would be the ruin of our navigation and commerce in these seas.

There is, my Lords, a very remarkable, and I think a very shuffling expression in the memorial delivered by the Spanish minister to our envoy at that court: "The British ships," says he, "are subject to confiscation, if it appears that they have designedly changed their course to make any of the Spanish coasts." My Lords, this expression betrays a downright ignorance of commerce and maritime affairs, and is a proof of what I have advanced before, that the Spanish ministers are grossly imposed upon themselves, or it proves, that they want to impose upon us. For almost in the same sentence, this very minister allows that we have a right to sail

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from any one of our own settlements to another: now every common tar can tell that it is impossible for us to do that, without being obliged to make the Spanish coasts, and to come within sight of their land, be the caution of the master of the ship never so great. In sailing from New England, don't we take the windward passage? thereby we have the Spanish island of Cuba in sight on the one side, and the French part of the island of Hispaniola on the other. In sailing from Barbadoes to Jamaica, if we sail in a direct line, we are obliged to make the coasts of the Spanish part of the same island; and in sailing from Jamaica to any of our northern colonies in America, we shall be obliged to sail either upon their coasts, or in what they call their latitude, for a great part of the voyage. Besides, my Lords, those who are acquainted in those affairs tell us, that the navigation on these seas is so uncertain, that it is impossible for the most expert sailor that ever was, to be sure of his course without making land: because, before they see land, they do not know what tides and what winds they are to meet with. In certain latitudes, my Lords, the tides are so strong that, notwithstanding all the ship's crew can do, their ship is borne by its violence within sight of land of the Spanish coasts; nay, close to their very shores. How barbarous therefore, my Lords, would it be in the Spaniards to seize and confiscate a ship in such circumstances! and how weak would it be in us to allow them any such right! yet, my Lords, unless we obtain the concession from them of "no search, be the grounds and pretensions what they will," we, in effect, give them such a right: because if we admit of one exception, of one restriction on their parts, there is not a ship of ours that trades lawfully on these seas, but what must necessarily fall within such exceptions, and under such restrictions, as will make her a lawful prize. Besides, my Lords, an absolute concession of this point from the Spaniards takes away chicane, it takes away all altercations, it takes away all grounds of dispute betwixt us and them, about latitude, possessions, prohibited goods, and all that. Thereby, my Lords, we do justice to them, we do justice to ourselves, we leave them in full possession of all the advantages to which they are entitled by treaty; we leave them in possession of the exclusive right of trading to their own settlements, so far as it is consistent with the treaty for Negroes; we do not deny their right to seize our ships whenever found trading in their ports and harbours; and this, my Lords, is all that we can prudently grant, or they justly demand.

My Lords, I have waved touching on the right we have to cut logwood in the bay of Campeachy, and other claims we have on the continent of America; because our asserting these claims to be just, and entering into a discussion of our rights, is not the business now before us. I shall only observe, that if these rights are well founded (as I believe no Englishman nor Spaniard either, will deny they are) the reasons I have already advanced against the pretences of Spain, will hold much stronger with regard to ships sailing from any one of our colonies to these places, than with regard to ships sailing from any one of our own colonies to another: because these places lie in the very heart of the Spanish settlements, and in the very bosom of the bay of Mexico; and unless we come to the resolution I have insisted on, it would be much better for us to give them up, than to keep them.

I shall trouble your lordships no farther; only, I shall observe, that what I propose is the most likely way to prevent the encroachments of the Spaniards, not only upon us, but upon other nations of Europe. There is not a Dutch skipper who will not tell us, that 'No search' is the only remedy to be applied in this case; 'No search,' my Lords, is a cry that runs from the sailor to the merchant, from the merchant to the Parliament, and from Parliament, my Lords, it ought to reach the throne. Wherefore, my Lords, I humbly move that the following words may be added to the noble lord's first resolution: "And that the searching of such ships on the open seas, under pretence of their carrying contraband or prohibited goods, is a violation and infraction of the law of nations, and of the treaties subsisting betwixt the two crowns."

The *Lord Chancellor* sitting at some distance from the lord Carteret, thought the latter had moved that the words of the Amendment should be inserted, instead of the latter part of the Resolution proposed by the earl of Cholmondley, viz. "and that no goods so carried are, by any treaty subsisting between the crowns of Great Britain, and Spain, to be deemed or taken as contraband or prohibited goods." Upon which he arose and said, he thought that if they substituted the latter words in place of the former, they should make a

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very bad exchange; because it would look as if they designed to impose arbitrary terms upon the Spaniards without assigning any reason: "that their resolving that no goods carried to and from any part of his Majesty's dominions," sufficiently implied, that the Spaniards had no right to search our ships, and therefore was a much more proper resolution for them to come to, than if they should admit of the noble lord's Amendment, which would seem to imply, that, though they did carry on an illicit trade, yet a search was unlawful.

The Lord *Carteret*:

My Lords; It was never my intention that any part of the Resolution laid before this House, by the noble lord who spoke first, should be omitted; but I am of opinion, that the addition I propose is a necessary Amendment to that Resolution, and that it is becoming the dignity and authority of this House to declare, in the most express terms, not only the rights which we ourselves have, but likewise what rights the Spaniards have usurped; and to shew them, that, however they have either designedly or ignorantly mistaken the sense of the treaties subsisting betwixt us, yet we are resolved to assert our just claims, and not to leave them the least shadow or pretence to a search for the future.

The *Lord Chancellor* said:

My Lords; I am as sensible of the many insults and injuries we have received from the Spaniards, and should be as willing to come into those measures that may be proper to bring them to a sense of the wrongs they have done us, as any lord in this House. But, my Lords, I think if we come to a resolution on that head, it ought to be a resolution rather in general than in particular terms; it ought to be a resolution that we can have no reason afterwards to depart from, and it ought to be a resolution our adherence to which can never afterwards embroil us with any of our neighbours. The Amendment which the noble lord has offered, though I extremely approve of his lordship's zeal, may, I am afraid, be attended with some of these inconveniencies; because I humbly conceive that there are certain cases wherein any nation, though at peace with another, may, by the law of nations, enter and search the ships of the other; nor can the nation to which the ship so searched belongs, deem such a search a violation either of the law of nations, or of particular treaties in force.—I think, my Lords, it never was disputed, but that, by the law of nations, the ships of one people at peace with another might be searched, in case that other people was carrying arms or provisions of war to a nation then at war with that other nation. Now, my Lords, I am afraid that our declaring the searching of all ships belonging to Great Britain, to be an infraction and violation of the treaty subsisting betwixt the Spaniards and us, will be very justly looked upon by the court of Spain, as precluding them of the rights of a search, to which they are entitled by the law of nations, and may produce a misunderstanding betwixt us, which we would all heartily wish to avoid, and could not be attended with very honourable circumstances on our part: however, my Lords, I am very far from proposing any thing that could in the least damp that becoming ardour, which the nation in general has shewed upon this occasion, to assert her rights, and to revenge her injuries. Nay, I should rather chuse to err on the other side; and if your lordships shall think that the resolution as amended by the noble lord who spoke last, is most proper to attain the desired ends of satisfaction for past, and security from future injuries, I am sure, I shall be far from objecting to the noble lord's Amendment; all that I suggest is, that if there are two methods in which we can form our resolution, both effectual, and equally answering the great purpose of our meeting, we ought to chuse that method which is subject to fewest inconveniencies and objections.

The Lord *Carteret* said:

My Lords; I should be sorry if the Amendment I have proposed should be attended with the inconveniencies and consequences which the noble lord who spoke last seems to apprehend, and I am obliged to the noble lord, for giving me this opportunity to shew the House, that if the inconvenience his lordship has suggested is the only one with which the proposed Amendment can be attended, it is not liable to any objection. The noble lord is apprehensive that the resolution, as amended, seems to take away from the Spaniards some of those rights to which they are entitled by the law of nations. And let me add, my Lords, that if his lordship's apprehensions are just, it takes from them the privileges to which they are entitled by particular treaties. But, my Lords, if the

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noble lord had been pleased to consider the words of the Amendment a little more attentively, he must have found that the infraction and violation were to be committed by searching such ships; What ships? Why, my Lords, the ships that are navigating in the American seas, and carrying on a commerce to and from any part of his Majesty's dominions. Now, my Lords, such ships can never have any contraband goods on board, unless we are at war with the Spaniards; and in that case, my Lords, they will seize them, whatever be their cargo. Contraband goods, my Lords, are only to be understood of provisions of war and arms, that are carried from one nation to another, who is at war with the nation that intercepts the ship having such goods on board. Therefore, my Lords, the resolution can never affect such a case, because the words of the Amendment only extend to those ships, which are trading to or from his Majesty's dominions. But, my Lords, there is not an expression in the whole resolution, as it stands amended, which can imply, that, in case one of our ships should be sailing to or from any part of the dominions of France, to or from any part of the Dutch dominions, to or from any part of the Danish dominions, the Spaniards have no right to search such a ship when she comes in their way, while any of these nations are at war with Spain. No, my lords, our agreeing to the proposed Amendment can never affect any of these cases, and therefore preserves to the Spaniards all the rights to which they are entitled by the law of nations, and the treaties subsisting betwixt the two crowns.

The question going to be put, If the whole first resolution, as it stood amended, should be agreed to,

The Earl of *Cholmondeley* spoke to the following effect:

My Lords; As the noble lord seems to think, that the Amendment he has proposed will be a very great improvement upon the first resolution, which I had the honour to lay before the House; and as I am of opinion that it can do it no harm, I am, in the main, very willing to concur with the resolution as amended by the noble lord. But, I hope I may be pardoned, if I object against one expression in the Amendment; the expression, my Lords, is, that the searching our ships "is against the law of nations." The noble lord himself, I think, seemed to admit that the guarda costas, whom we so much and with so great reason complain of, and who were the authors of all the insults committed upon our navigation there, are not ships belonging to the crown of Spain. Therefore, my Lords, the violences they commit must not be imputed to his Catholic Majesty; and it would be a very exceptionable way for us to express ourselves, should we say that the actions of a few private men, who are no better than pirates, can violate the law of nations. If, indeed, they acted by orders from the court of Spain, or if the Spanish court should say expressly that she will protect and encourage them in searching our ships, who are in a fair trade betwixt one part of his Britannic Majesty's dominions and another, that court would then violate the law of nations, because she would give her sanction to a a practice that must be unjust, even though no treaty of commerce subsisted betwixt Spain and Great Britain. But, my Lords, by the treaty of Utrecht, no private differences betwixt the subjects of the two crowns, on these or any other seas, are to be deemed a sufficient ground even to make reprisals, until the complaints of the respective parties have been laid before the courts to which they belong, or war is declared betwixt the two crowns. If, my Lords, after we have in the resolutions now before us, asserted positively what our just rights are, the court of Spain should deny them to be such; there is no doubt, but that in such a case we should be obliged to vindicate the law of nations, and the honour of our own nation. But, my Lords, I shall not agree to our resolving that the law of nations is violated by what is in the power of a few private men to commit every day. Therefore, my Lords, I humbly move, that the Amendment proposed may stand thus: "And that the searching of such ships on the open seas under pretence of carrying prohibited goods, is a violation and infraction of the treaties subsisting between the two crowns."

The question being put upon this motion, and then upon the whole first Resolution, it passed without any division; and then the question was put upon the second Resolution, which passed without any debate or division likewise; but the question being put upon the third Resolution,

Lord *Bathurst* spoke to the following purport:

My Lords; I am far from intending, by any thing which I am to trouble your lordships with, to throw in any obstacle

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that may prevent our coming to those resolutions that are most proper, both for obtaining all reasonable satisfaction from the Spaniards, and supporting the influence which the authority of this House ought to have both at home and abroad. Your Lordships have already agreed to two resolutions, which I think to be extremely proper, and may very much contribute to answer both these ends. But, my Lords, since I have heard what has been urged by the two noble lords who spoke first on this affair, have heard the rights of our nation to a free commerce and navigation in America fairly stated, and have heard it proved, beyond the possibility of a reply, that these rights have been notoriously invaded and violated, I cannot help being amazed that such a heap of memorials, such packets of letters, and so many volumes, I may say, of credentials, should pass about a matter in itself so very clear, so very evident. Is it not surprizing, my Lords, that for these twenty-three years (for so long has the trading part of our nation complained of the Spanish depredations) none of our negociators, none of our ministers, none of our ambassadors have hit upon so plain a fact, as is contained in the first resolution we have now agreed to? A fact, my Lords, that appears upon the face of the very treaties that regulate all the commerce betwixt us and the Spaniards, both in Europe and America. This, my Lords, give me leave to say it, must create in me a suspicion, that the persons who (to use the words of the resolution now under our consideration) made the frequent applications on the part of his Majesty to the court of Spain, either did not or would not understand these treaties, or never looked into them. I should be sorry, my Lords, to suppose that it was the interest of any of our negociators to prolong the negociations on this affair; I should be yet more sorry, to suppose that the pusillanimity of any of our ministers at this court, from whom our ministers abroad receive their directions, tied them up from putting it home to the Spanish court, and requiring a positive and a decisive answer. But I think, my Lords, I may venture to say, that if we had behaved in this affair with a spirit and resolution becoming Englishmen, our credit had never sunk so low, nor our discontent at home risen so high. The worst consequences that could have attended such a behaviour on our part, must have been a war; and that too, my Lords, a war upon an element where we were sure to be masters. By such a war we might have gained, but never could have lost; at least, we never could have lost near so much as we have lost for some years past, by a peace more destructive as well as more dishonourable in its consequences, than the most unsuccessful war. If, my Lords, it should be objected to this, that we ought to be cautious how we enter into a war with Spain, because we do not know what part some of our neighbours may act in that event, I should be glad to be informed of any who shall make such an objection, why we are not to suppose that, in case of a war, our most powerful neighbours will not be as ready to act in favour of Great Britain as in favour of Spain. I hope, my Lords, sufficient care is taken to strengthen us with such alliances, as may enable us to make as good a figure in case of a war in Europe as we have formerly made; and, I hope there has been nothing to our prejudice concerted betwixt the court of Spain and any other court, that has escaped the vigilance of our ministers. I dare say, my Lords, none of these will be pleaded as reasons why we have so long and so tamely put up with the injuries and insults we have met with from Spain; far less can it be pleaded that his Majesty has not a sufficient revenue, to defray all the expences that can attend our ministers having a due influence in the courts of Europe, or procuring the best intelligence of every thing that may affect the honour and interest of this kingdom.

The resolution which is at present under our consideration, imports, that this House is satisfied with all the steps taken by our minister at the Spanish court, to procure a just satisfaction for our injured merchants; for nothing less can be implied by these words, "That it appears to this House, that frequent applications have been made on the part of his Majesty to the court of Spain, in a manner the most agreeable to treaties and to the peace and friendship subsisting betwixt the two crowns." But, my Lords, I own, when I examine the instructions that have been sent to our ministers at the court of Spain; when I examine the memorials that have, in consequence of these instructions, been delivered in by them to that court, and when I examine the Spanish minister's answers and our minister's replies; I say, when I examine all these, I cannot help having some difficulty in

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giving my concurrence to this resolution. In one of the Answers, the Spanish minister is pleased to advance, "That there is no mention made of the American trade in any article of the treaty concluded in the 20th year of king Charles 2, except in the eighth article, where, continues he, as well with regard to the Indies as to other countries, all that is granted by the treaty of Munster in the 23rd year of king Charles 2, is granted to Great Britain and her ships, without any distinction, upon their observing the laws and restrictions to which the subjects of the United Provinces are limited and confined. This last condition proves, that whatsoever is stipulated and granted to the subjects of the United Provinces, cannot be refused to the English; but it proves at the same time, that they on their part are tied down to the observance of those laws, to which the subjects of the United Provinces are obliged by the treaty of Munster." These, my Lords, are the words of the Spanish minister in his memorial to Mr. Keene, our resident at the Spanish Court. But, my Lords, they contain a piece of very strange sophistry. The Dutch, says he, are tied down to certain regulations in the American trade, and the subjects of Great Britain upon their observing these regulations are entitled to the same advantages. My Lords, any man that talks in that strain, must suppose the person to whom he talks a fool, or something worse than a fool. For there is no man who has ever looked into that treaty, but must see that the Dutch are indeed tied down to certain restrictions in the European and the East-Indian trade with Spain; but it puts them upon the very same footing with regard to the American trade, upon which the treaty concluded in the twenty-third of Charles 2, puts us. So that, my Lords, the laws to which the Spanish minister says we are tied down, must be those that are applicable to the commerce in Europe. Indeed, my Lords, when I first read this passage in the Spanish memorial, I thought there must be some particular stipulation betwixt the Spaniards and Dutch by the treaty of Munster: but when I came to look into that treaty, I found an Article in it that destroys the possibility of any such regulations, with regard to the navigation and commerce in America; for the sixth Article of that treaty runs thus: "And as to the West-Indies, the subjects and inhabitants of the kingdoms, provinces, and lands of the said lords, the king and states respectively, shall forbear sailing to, and trading in any of the harbours, places, forts, lodgments, or castles, and all others possessed by one or the other party, viz. the subjects of the said lord the king shall not sail to, or trade in those held or possessed by the said lords the states, nor the subjects of the said lords the states sail to, or trade in those held and possessed by the said lord the king." This Article, my Lords, of the treaty of Munster takes away all possibility of our being laid under the restrictions, in our navigation in America, which the Dutch are subject to in their trade with Old Spain. Therefore, my Lords, I think it is surprizing, that the Spanish minister should talk at this rate, or that he should suppose that this reason could pass with any man, who had ever looked into the treatics between the two crowns; and it is no less surprizing to me, that such a plain answer to this part of the Spanish memorial should not occur to our minister at that court.

My Lords, it is certain, that in all the treaties that have been made betwixt Spain and any nation in Europe, the Spaniards have always stipulated an exclusive right of commerce to their own settlements. And, indeed, the American treaty of accommodation, &c. which we granted to them, was rather explanatory of those rights, which they before pretended to in their own plantations, than giving them any new ones. It was a treaty, my Lords, granted them at a time when they were complaining of almost the same grievances from our subjects in America, as our merchants now suffer from their guarda costas. They presented memorials at our court, in the same manner as our ministers now do at theirs; and they received answers from us much in the same strain as we do now from them. We did not pretend, indeed, to justify any of the captures or depredations committed by our subjects in America, neither did we endeavour to blind them with any strained constructions of treaties, much less did we threaten or bully them; and in this, it is true, the part we then acted, is different from the part they act now. But, my Lords, it seems, we then knew very well that the Spaniards were sensible they were no match for us; for though we actually dispatched orders to our governors in America, directing a cessation of the hostilities, and a restitution of unjust captures; and though these orders, before they were

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dispatched from hence, were communicated to the Spanish minister at this court; yet very often a private packet by the very same ship, to the very same governor, enjoined him to pay no regard to these memorials, but to make the best use of his time and power, in seizing and disposing of what Spanish prizes he could take. This, my Lords, was the manner in which our government then acted; I could never hear of any of our American governors who was rewarded, either for allowing these depredations, or for disobeying the public orders that were sent him: nor indeed were any of them punished; for before such a governor could be called over and brought to a trial here, all differences were commonly made up betwixt the two courts, matters were hushed, the governor was left in the exercise of his power, and the sufferers to the satisfaction of complaining. But, my Lords, unjustifiable as this way of proceeding was, we do not find that any of the subjects of Great Britain, who acted by virtue of a commission from our governors in America, ever exercised any cruelty upon the persons of the Spanish subjects, who were so unhappy as to fall into their hands; we do not find that any of them were led into a dismal captivity, or thrown into loathsome prisons at the very gates of our capital. This species of rapine, which deprives a man not only of his property, but his liberty, his limbs, and sometimes his life, was reserved for the Spaniards to practise in time of profound peace and tranquillity, and upon those who own themselves their friends and allies. It is true, my Lords, that in those days, a gang of lawless robbers, natives of England, did commit great excesses and cruelties upon many of the Spaniards in America: but, they never had any authority or connivance from our government; and they did no more to the Spaniards, than they would have done to the English, had they had the like booty to expect from the one as from the other. Our governors and our men of war at last suppressed them; they hanged as many of them up as fell into their hands, and, I believe, there was not a subject who enjoyed the protection of our laws, who did not heartily detest them. But, my Lords, though the circumstances of our commerce and navigation in America now, bear a near resemblance to their case then, in both these respects, yet we have endured their insolencies much longer than they did ours. Their complaints and our depredations did not last for above two or three years at farthest. But their outrages have been for twenty years continually repeated, unprovoked by any act of hostility, and in return for many instances of favour and friendship. Besides, my Lords, I conceive we are much more able to command redress from Spain now, than they were to command it from us in those days. The succession to their crown was then doubtful, they were harrassed and exhausted by a long and unsuccessful war, and were destitute of proper alliances to make head against our naval power. But this, my Lords, is not our case; his Majesty is enabled to make as good a figure at sea as any of his predecessors, and I believe, a much better. We have enjoyed a long and profound peace, and I hope, my Lords, the effects of that peace will be felt by the nation, if we are obliged to enter into a just and a necessary war. We have received provocations enough to rouse the most insensible; we have suffered as long as ever prudence could require. And, though I believe every lord here is of opinion that peace is to be preserved, upon fair and honourable terms; yet, the chance of war is, undoubtedly, preferable to such a peace as we have for these twenty years past enjoyed with Spain. I hope, my Lords, if we come to the resolutions now proposed, we shall act with more vigour than has hitherto been exerted; for I cannot be persuaded that the applications to the Court of Spain, have been made with that warmth and resolution which the affair required, or in the manner most agreeable to treaties; because many things, that might have been urged from treaties in favour of our injured merchants, seem to me to be omitted in our minister's memorials: nor, my Lords, can I be persuaded that our acting in this manner was the proper way to cultivate the peace and friendship subsisting betwixt the two crowns; because our tameness and submission appears plainly to have encouraged the Spaniards in their denying us justice, or redress: I am afraid, my Lords, it has heightened their obstinacy, and has given that court reason to imagine that we either dare not, or cannot, or will not redress ourselves. But, my Lords, I hope the measures that will be taken in consequence of these resolutions will soon undeceive them. We have experienced his Majesty's concern for the interest of his people, and if an adequate satisfaction be

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not speedily procured, it will not be owing to him, but to those who represent the differences betwixt us and Spain in such a light, as either makes the damage done to our navigation and commerce inconsiderable, or to those who condemn the manner in which the sufferers traded, as illicit, or wrest the sense of treaties to favour the violences of the Spaniards.

My Lords, I think it appears both from the proceedings of the other House, so far as they have come to our knowledge, and by the papers lying upon our table, that there is no necessity for any farther enquiries. The sufferings of our merchants, and the outrages of the Spaniards, have been proved beyond controversy; they have been shown, after the strictest examination, to be contrary to the tenor of treaties and the law of nations. Let us therefore unanimously concur in a proper defence of our undoubted rights, and demand a confirmation of those privileges to which public compacts and established treaties have evidently entitled us. But let us not too hastily agree to this resolution, which supposes our applications more regular and forcible, and perhaps the court of Spain more obstinate and unreasonable, than they will appear upon an exact consideration.

However, I shall not take the liberty to propose any amendment to this resolution, or to offer any other resolution in its room. I submit to your lordships' better judgment in every thing I have said; which, I assure your lordships, was not spoken with any intention to bring us into a debate. On the contrary, I am of opinion, that nothing can contribute so much to the figure which this nation ought to make abroad, as the unanimity of the British parliament on this important affair; I should therefore chuse rather to acquiesce in what is not perfectly according to my own judgment, than to give the world any reason to believe that we are not unanimous on this occasion.

The Duke of *Newcastle*:

My Lords; It must give the most sensible pleasure to every man who wishes well to the interest of Great Britain, and the honour of the crown, to find that the parliament has been as tender of the interests of our injured merchants, as they have been unanimous in representing their grievances. But it will give me great concern, if the endeavours of parliament to procure them redress, should occasion any reflections on the conduct of those whom his Majesty has thought proper to entrust with the management of the points that remain undecided betwixt us and the court of Spain, or of the points that have already been adjusted. As I dare say, none of the noble lords who spoke on this occasion, have any other views than what proceed from a sincere desire to see these differences accommodated in the manner most agreeable to the interest of this nation; so I am convinced that I shall be pardoned, if I endeavour to set the proceedings of his Majesty's servants, on this important affair, in a just light.

The noble lord who spoke last, seems to be apprehensive that our minister at the court of Spain has been bound up by the instructions he received from our court, from making those instances that were necessary to procure redress to our injured merchants, with that zeal and warmth which, from the justice of their complaints, he was entitled to exert. My Lords, if our minister at that court has been guilty of any remissness of that kind, I shall be very far from excusing it; but one thing is certain, and I believe some of your lordships know it by experience, that it is very hard for those at a distance, to direct a minister at a foreign court in what manner he shall behave; and that it is unjust to blame him, if he does not act in the manner in which they think they would have done in his situation. A minister is, indeed, always supposed to be furnished with instructions and powers to make the honour of his prince and the interest of his country the first objects of his concern; but it is hard to tie him down to any particular measures, when these interests come to be canvassed, and to the very words in which he is to pen every memorial he shall present. An able minister, my Lords, in these circumstances, is to act as the exigencies of his negociation and the characters of those he has to do with, shall require. Thus far, I have taken the liberty to speak in general, as to the part in which our ministers both at home and abroad have acted, with regard to the disputes betwixt us and Spain. But if, upon examining the steps they have taken, it shall be found that they have acted any way inconsistent with, or contradictory to, the interest of this nation; if it shall be found that the steps they have taken are even not agreeable to the resolutions we are coming to, I shall be far from vindicating them; I shall be as willing as any lord

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here, that they fall under the censure of this House, and be given up to the justice of their country. What the noble lord who spoke last principally insisted on, I think, was, that the memorials of our minister at the court of Spain, and the representations he made, were not expressive of our rights to a free navigation and commerce to and from any part of his Majesty's dominions in America. My Lords, I have looked pretty exactly into these memorials, and dare venture to affirm, that our rights are fully and expressly asserted in them, and that there has been no omission of any circumstance in our favour, that could reasonably occur to our minister at the time of his presenting these memorials. In the memorials delivered by the Spaniards to our minister dated the 10th of last month, the Spanish minister had said, "That there was no article in the treaty of commerce made with the Spaniards in the 20th year of king Charles 2, except the eighth, applicable to the navigation carried on by the two nations in America;" thereby intimating that, on these seas, the Spaniards were not tied up to the manner of visiting our ships prescribed by the said treaty; but that their "guarda costas might seize them whenever it appeared that they had unnecessarily altered their courses to make any of the Spanish ports." This, my Lords, was a very interesting point to our navigation and commerce, and had our minister yielded it up to that court, or had our ministry here given him any instructions for that purpose, he and they, no doubt, had been guilty of betraying the interests of their country. But I humbly conceive, the memorial which our minister, by order of his court, presented in answer to that memorial of the Spanish minister, contains a full and explicit answer to this unjustifiable claim of the Spaniards. He tells that court, what all the lords who have spoken on this occasion have admitted, "That we do not pretend to a right of trading with the Spanish settlements in America, because there is not only no article in the treaty made in the 20th of king Charles 2, that can authorize such a trade, but that the whole tenor of the treaty made three years after, absolutely prohibits it. And that we were not confined to particular latitudes, or subject to any seizures, unless detected in the exercise of unlawful commerce."

This, my Lords, is what the noble lord who proposed the Amendment to the first resolution we have come to, principally insisted on. For I think the noble lord seemed to be of opinion, that the exclusive article against our trading to the Spanish West-Indies, in the last mentioned treaty, was the principal security we had against the encroachments of the Spaniards upon our navigation in these seas. And, my Lords, I think, this answer of his Majesty's resident at the Spanish court, was a much more proper answer to their claim of searching, than if he had entered into a long and tedious disquisition about the sense of the sixth article of the treaty of Munster, whether it respected the Dutch and Spanish commerce in America as well as in Europe, or that of Europe alone. Your lordships likewise find, that in the representation of our minister, which gave occasion to that memorial of the Spanish minister, he urges the very thing (and almost in the same words) which is contained in your lordship's first resolution. He insists, that the British ships are incontestably entitled to a right of carrying on a 'lawful commerce' in America: and this 'lawful commerce,' according to your lordships' sense of the words, is here restrained to our liberty of trading in any commodities to and from any part of his Majesty's dominions. At the same time he remonstrates, that even though some goods which may be thought the growth of their colonies should be found on board of our ships by a Spanish guarda costa, that circumstance cannot be a just ground to the Spaniards for confiscating the whole ship and cargo. And to support this, he relates the 15th and 23d Articles of the treaty made in the 23d of king Charles 2. My Lords, I cannot conceive that any words can come up more fully to the resolution which your lordships have just now come to, than those of the memorial. And I am convinced, had the noble lord who spoke last, considered these memorials with that accuracy he is so much master of, his lordship would have been of my opinion. But as it is necessary for the justification of our ministers here, to take a farther view of the memorials which his Majesty's resident in Spain presented in consequence of his instructions from this court, I shall beg your lordships' indulgence for a few words more. My Lords, when we take a view of the several papers lying before us, we see that his Majesty's instances are not confined to a bare demand of reparation of the injuries done our merchants, but insist on our having secu-

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rity for the quiet enjoyment of all their just rights for the future. The Spanish minister had pretended that our ships could not claim a right to be visited only in the manner prescribed by the treaty made in the 20th of king Charles 2. And I think, the words of the memorial given in to the court of Spain by his Majesty's minister there, in answer to this assertions come so fully up to what appears to be the sense of this House, that I doubt much if the noble lord who spoke last would undertake to improve them. It is there insisted upon, "That the particular regulations set down in that treaty made in the 20th of king Charles 2, to be observed by the subjects of both nations in regard to navigation in places where it is agreed to be free, far from being repugnant to the treaty concluded three years after, are conformable thereto, and ought necessarily to be extended to the ships and effects of the subjects of both nations in whatever seas they are met with, whether in Europe or any other part of the world." These, my Lords, are the words of the memorial, which are submitted to your lordships' consideration. And they suggest that our ships ought only to be visited by two or three men in a long-boat, as the noble lord who offered the Amendment observed. I shall now proceed to examine if our ministry has been deficient, by not making proper applications at the court of Spain upon the other points of difference. The manner of carrying on the process of confiscation, when any of our ships were seized by the Spaniards, was a case that very much required the interposition of our court, and no doubt will be brought under a proper regulation, when the other differences come to be adjusted. By the treaties betwixt Spain and England, it is certain that each nation has a right to judge how far any ships, or vessels, brought as prizes into her ports, are legally confiscable. But this right has been shamefully abused by the Spaniards, who, after they seize a ship belonging to Great Britain, detain the master and his crew on board their own ship, during all the time in which the process is carried on. It is true, the Spanish governor assigns them counsel; but then this counsel has no opportunity of knowing what defence the prisoners can make, because they never once see them during all the time the process is carrying on; nor are they even allowed the liberty of seeing so much as one paper which may make for the prisoners, they being before all seized and sequestrated by order of the government: So that, the defence, that is made, is at best a mock defence. This abuse, my Lords, we have complained of in the strongest terms at the court of Spain; and it was, doubtless, much owing to this practice, that the equitable intentions of the king of Spain have been so often baffled, and so many of our ships carrying on a fair and lawful trade, confiscated by the partiality of judges and governors. We have likewise, my Lords, complained in the strongest terms of the hardships our merchants are under, who enter their appeal to the council of the Indies in Old Spain, against the decision of the governors in America, by being deprived of bringing any other evidence in their own favour, but what has been already admitted in their courts of judicature in America. And there is great reason to believe that the king of Spain, both from his own equitable intentions, and from a consideration of the superiority of our naval force, will agree to a proper regulation. But there are some points, perhaps, which may admit of a little dispute when things come to be settled in the way of negociation. I believe it will not be easy for us to determine the exact value of our merchants losses; especially, if it is true, as I am afraid we have but too much reason to suspect, that some of our merchant-ships, that have been seized by the Spaniards on the American seas, had actually been concerned in an illicit trade with their settlements, and laden with their goods. I agree, indeed, with the noble lords who have spoken on this head, that it was against the faith of treaties, for any ship commissioned by the king of Spain to attack or search an English ship or vessel on the open seas. But, my Lords, if after such a seizure has been made, a confiscation of that ship has followed upon plain and incontestable evidence, given in before the Spanish courts of judicature, that such a ship was concerned in an illicit trade with the Spanish settlements in America; I say, my Lords, in such a case, I doubt much if a minister could entirely be justified, in reclaiming such a ship, or demanding an equivalent in money. My Lords, I do not mention this with any design of vindicating the Spaniards in their depredations, which I am sensible have been unjust in themselves, as well as attended with many aggravating circumstances. I do it only to shew to your lordships, that, though the king of Spain is disposed to redress the in-

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juries that have been done us, and which, as I have shewn to your lordships, our ministers have complained of in the strongest terms, there may arise certain points worthy of being discussed in an amicable manner, and in which perhaps it may be necessary as well as prudent in both parties, to recede a little from the rigour of their demands. But, my Lords, when I say this, I have not the most distant thought, that we ought to give up the least point of our right to a free navigation in the American seas. This, I am unalterably for asserting at all events; but I think the most proper way to secure it, is by shewing the world that we will as little support unwarrantable practices in our merchants, as we will suffer them in others. And this manner of proceeding will convince the other powers of Europe, that we have right as well as power on our side. But should we precipitately enter into a war with Spain upon any doubtful points that may remain undecided betwixt us, or should we attack them without giving them an opportunity of making us reparation in an amicable way, the other powers of Europe would immediately take the alarm; they might look on our proceeding as the effect of a design, either to seize upon some part of the Spanish dominions in America, and to annex it to our own crown; or as an attempt to force the Spaniards to allow us a free trade and commerce with their settlements in America. Did any of our European neighbours, my Lords, suspect that we had formed a design to dismember any part of the Spanish monarchy from that crown, there is not the least doubt but they would look upon us with a very jealous eye; because, as your lordships know, the further alienation of any part of that monarchy is strictly guarded against in a separate article of the treaty of Utrecht, and for the observance of this article both we and the French are guarantees. If it were suspected, that we designed to force the Spaniards to allow us a free trade in all its branches to their settlements in America, the French would not fail to oppose us in such a design, the king of Spain, in the same treaty of Utrecht, having laid himself under an engagement, not to grant it to the subjects of any nation of Europe except his own: and the French monarch, by the same treaty, was obliged to give up all claim to the exercise of any commerce to the Spanish settlements there. This, my Lords, has always been looked upon as a necessary step towards preventing any one nation in Europe from becoming too rich and too powerful for the rest: and the preserving the sole right of navigation and commerce to and from the Spanish settlements in America, to the Spaniards themselves, was not the effect so much of the Spanish policy, as of the jealousy which the powers of Europe entertained among themselves, lest any other should acquire too great a property in that valuable branch of commerce. They knew that while the treasures of the Indies were the property of the Spaniards, or at least while they centred in Spain, that, sooner or later, their subjects must have a proportionable share; because that monarchy is destitute of many of the advantages, which the other nations of Europe enjoy, from their manufactures and the industry of their inhabitants; and that consequently it was not in the power of the Spaniards, let them have never such an aspiring and politic prince at their head, to monopolize these treasures. Whereas, should too large a share of them come into the hands of any other nation in Europe, whose situation, power or trade, render them perhaps already formidable to their neighbours, they might be employed to purposes inconsistent with the peace of Europe, and which might one day prove fatal to the balance of power, that ought to subsist amongst her several princes. In such a case there is no doubt but that a formidable alliance would be made against the power thus aspiring; and should the differences at last come to be made up by a treaty, it would be found that the most probable way to secure the general peace, is to suffer the Spaniards to remain in the same situation, as to their American settlements, they are now in. I know, my Lords, that in the same year in which the treaty of Utrecht was concluded, some stipulations were made in our favour as to the American trade, particularly the contract for importation of slaves into the Spanish Indies, which was made in consequence of the 12th article of the treaty of commerce at Utrecht. Three years after, we likewise obtained a treaty of declaration in regard to the said slave trade; which treaty was confirmed by the treaty of Madrid, which was concluded five years after. But, my Lords, the privileges which we gained by these treaties, and the execution of them, have put both our government and our merchants to great expence and trouble in their solicitations at that

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court; and the obstructions our interests met with there, no doubt, were secretly promoted and encouraged by some of our neighbours, who, I believe, might otherwise wish us very well, but could not, for the reasons I have already given, bear to see any alteration made in the American commerce, that might endanger the balance of power, which the princes of Europe have always thought so necessary to her quiet.

From these considerations, my Lords, were there no other, I think it evidently appears, that to plunge ourselves into a war with Spain, before we left them inexcusable in their conduct towards us, would be a very impolitic step. For, if we meet with success in such a war, the greater the success, the greater will be the jealousy of our neighbours, and the stronger their endeavours, either secretly or openly, to deprive us of the advantages our arms may have acquired. If the war is unsuccessful on our side, it will confirm the Spaniards in their refusal to do us justice, and gratify their pride and insolence. Besides, my Lords, let our success in a war with Spain be as great as the best friend to Britain could wish; I am afraid, even in that case, our other merchants would have as much cause to complain of our courage, as our West India merchants affect to do of our forbearance. Your lordships are to consider, that the French, by observing an appearance of an exact neutrality, may run away with the most gainful branches of our commerce, which are those to Portugal, and to Turkey; our trade to Old Spain must be entirely in their hands, and our trade to all other places rendered precarious by their privateering. Thus, in the end, we may find ourselves losers by our conquests. So that, my Lords, there is no occasion for any one to be surprized, that no violent or precipitate measures have been yet entered into against Spain, and that our ministry has hitherto endeavoured rather to persuade than to compel. I say, my Lords, to persuade; for I think it is no hard matter to convince a Spaniard, who knows any thing of the differences betwixt us and that court, that it is for the advantage of his nation, that the matters of dispute betwixt us should be adjusted in an amicable way. For, should the Spaniards obstinately refuse to come into reasonable terms, our cause would become the cause of all Europe; every power in it would look upon the injustice they do to us, as a prelude to what they themselves are one day to expect. This conduct will convince all our neighbours, my Lords, that we have no design to engross any part of the Spanish monarchy to ourselves, with a view of disturbing the peace of Europe, or of making them more dependent upon us; for hereby they must see that we are forced into a war, in which we are supported by justice; and that we are acting from no principle either of ambition or avarice, but solely from the motives by which every people who understands or regards their own interest must necessarily be determined. It will likewise give the king of Spain time to reflect both on his own danger, in case of a refusal, and to see his own interest in case of a compliance; and if he has been imposed upon by false representations from his own ministers, it may open his eyes, and make him less susceptible of such impressions in time to come, and consequently a more firm ally to Great Britain.

What I have said, my Lords, I think is sufficient to prove, that frequent applications have been made to the court of Spain on the part of his Majesty, "in a manner the most agreeable to treaties, and to the peace and friendship subsisting between the two crowns." I hope your lordships are convinced, that our ministers both at home and abroad have acted for the honour and interest of this nation: and if any of your lordships will take the pains to compare the remonstrances given into the court of Spain by our minister there, with the resolutions that are now under our consideration, I believe it will be found that it was not owing to any defect of application from the ministry, that we have not long since had a full and ample restitution in every point. It was owing to the obstinacy of the Spanish court, and that prince's being misinformed and imposed upon as to the subject of our difference, that they refused us satisfaction; and it was owing to a tender regard for the interest of this nation, that his Majesty did not employ force in order to obtain it. The noble lord who spoke last, was pleased to give your lordships an account of the situation in which things were in betwixt us and Spain, when the treaty of the 20th of king Charles 2, was granted. But I believe his lordship is of opinion, that our conduct at that time was a proof rather of the power than of the justice, or soundness of politics of our nation. The Spaniards, it is true, were not then in a condition to

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make head against the power of England: but the other powers of Europe interfered; they grew jealous, lest, if the Spanish settlements should be ruined in America by means of our depredations, they might be deprived of the advantages they drew from their commerce with Old Spain; and though at that time, there was no good understanding betwixt the French and Spanish courts, yet the French thought it much more for their interest, that the Spanish settlements in America should remain annexed to that crown, than that any of them should fall into our hands: and it appears, that the Dutch, those rivals of our trade, have always been of the same opinion. Therefore, my Lords, it was not from any inclination, or any pecuniary consideration, that we had to accommodate differences with, or to prevent depredations upon the Spaniards in America, that we agreed to a treaty which they thought so advantageous to themselves; but because we were sensible, that if we delayed any longer to do them justice, the other powers of Europe would interpose and exert themselves in favour of the Spaniards. This, my Lords, was the true reason why we granted them the American treaty; and this must be the case at all times, when we or any other power in Europe shall, by the superiority of a naval force, endanger any part of the Spanish acquisitions in America. I believe, as the noble lord observed, the Spaniards at the same time remitted to us the payment of a considerable sum; but, my Lords, had there been no other reason to oblige us, we could easily have found a pretence for refusing the payment of that sum; and the same force that protected us against their resentment in our depredations, would have protected us in our refusal to pay what was owing to them. Their giving up so considerable a demand might indeed have great influence over a court, which stood so much in need of money as that of king Charles 2 generally did; but it is plain our principal motive was, the apprehensions we were under, lest our neighbours should make the Spanish quarrel their own.

The noble lord who spoke last, seemed to insinuate, that the ministry had acted in a pusillanimous manner, by bearing so long with the insolence of the Spaniards: I hope I have shewed, that the measures they have taken, have been both just and necessary. What benefits would have ensued from more precipitate methods of proceeding, what advantages we could have proposed from rushing into a war with Spain, no lord has yet informed us. The debts contracted in the late war lie yet heavy on the nation, and who but her enemies can think with patience of adding to the burden?

The advantages, if any, that we shall gain, may entail another war upon us, by which all Europe may be set on fire; whatever we get by a war, must be by employing our naval force, either in making conquests in America, or in attacking and seizing the Plate-fleet. Whatever acquisitions our arms may gain us in America, the treaty for restoring peace, as I have shewn, will probably take away; and all other nations in Europe are too much interested in their Plate-fleet, not to unite their endeavours to secure it from us, or, at least, to reclaim the treasure we may take in those ships. Any attempt of this nature would endanger the friendship of our best allies, and then I should not be surprized to hear our ministry as much blamed for disobliging our friends, as now for encouraging our enemies. It is much more safe for others to censure and direct, than for ministers to act: and since I sat in this House, my Lords, when a war with Spain was thought just and necessary by his Majesty and the ministry, it was opposed by those who are now loudest in their complaints against pacific measures. This, my Lords, cannot but create a suspicion, that the outcries of some against the government do not proceed so much from a spirit of patriotism, as of opposition. And I believe there is nothing they so much dread, as our entering into a vigorous war, which would deprive them of the only grounds of opposition that the conduct of the ministry has left them. The only thing they are more afraid of, is the prevention of a war, by a full concession of all our demands: but far be it from me to imagine that such ungenerous sentiments can have infected your lordships, who will doubtless rejoice in the honour and prosperity of your country, whether secured by the power of victorious arms, or the less hazardous means of treaty and negociations.

The Earl of *Chesterfield*:

My Lords; If I rightly understand the noble duke, he has endeavoured to prove that nothing more could have been done for the honour of this nation, than has been done in our present differences with Spain by our ministers; and that it is not

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to be imputed to the king of Spain, but to his ministers, that we have not had satisfaction. Had the injuries we suffered, my Lords, been of a short continuance; had they been of no older date than three or four years, the noble duke's arguments might have given me a very favourable impression of the conduct of our ministry. I know that the forms of the Spanish courts of justice, together with the natural phlegm of that people, subject those who have any thing depending before them, to great inconvenience and unreasonable delays. But, my Lords, when I reflect that we have complained, and complained with justice, above twenty years, I cannot help looking on such delays as an absolute denial of redress, and concluding that the Spaniards intend to sell us their friendship at no less price than the possession of our settlements in America, and the exclusive sovereignty of those seas. Every man must be convinced of this truth, who has had an opportunity of observing how their conduct has varied in proportion as they had any thing to hope or to fear from this nation. About twenty years ago, their insolence provoked his Majesty to give such instructions to his admiral, as made them feel the effects of our resentment for several years. During all that time our merchants were, I think, pretty free from any apprehensions of the Spanish depredations. But no sooner had that court recovered from the consternation, into which the success of our arms had thrown her, and strengthened herself with new alliances, than her guarda costas renewed their violences, and we our fruitless solicitations. In this state affairs continued till the treaty of Seville. At that time, as your Lordships know, the court of Spain had one favourite point in view, which she could never have obtained without our assistance and friendship; this was the introduction of Don Carlos into Italy with 6,000 Spanish troops, in direct violation of one of the principal articles of the quadruple alliance. We even consented to this alteration, though we thereby hazarded the friendship of our old and firm ally, the emperor, who by that introduction has since lost most of the possessions he enjoyed in Italy. While this negociation was upon the carpet, and while we seemed to make a difficulty of gratifying the ambitious views of the queen of Spain, there was a cessation of their hostilities: for in the list of the captures now before us, I do not see any that were made during that time. I mention this, my Lords, to shew that the Spanish monarch can make himself obeyed by his American subjects and governors, when he has an interest to gratify; but that motive no sooner ceases, than he and his court are contented that their orders should be disobeyed, and their intentions misunderstood by their servants and officers; and therefore we can never hope for the due execution of any treaty with Spain in our favour, if we should leave it in her power to elude it. This is a point, my Lords, which will not admit of the least dispute, if we consider in what manner those articles of the treaty of Seville, that were in our favour, have been executed. The 4th article of that treaty runs in the following terms: "It having been agreed by the preliminary articles, that the commerce of Great Britain and France, as well in Europe as in the Indies, should be re-established on the foot of the treaties and conventions antecedent to the 11th year of king George 1, and particularly, that the commerce of Great Britain in America should be exercised as heretofore; it is agreed by the present article, that all necessary orders shall be dispatched on both sides without any delay, if they have not been sent already, as well for the execution of the said treaties, as for supplying what may be wanting for the entire re-establishment of commerce, on the foot of the said treaties and conventions." How well this article has been observed, the list of captures before your Lordships will make appear. Can it be pretended that, since the treaty of Seville, we have enjoyed the benefit of one article of the treaties concluded betwixt us and Spain before the 11th year of king George 1? Or rather do not the circumstances, with which almost every capture of our ships has been attended, prove, that the Spaniards utterly disregard these treaties? On our side, indeed, this article has been punctually observed, nor do I find an instance of any infringement of it by our subjects in America, whose hands seem to have been bound up on purpose that the Spaniards might proceed in their violences and depredations with impunity.

By other articles of the same treaty it appears, that the Spaniards were even then determined that we should not reap any advantage from it, longer than till their own purposes were served. Had we insisted upon, and obtained an immediate reparation of the damages our mer-

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chants then complained of, that could never have answered the intentions of the Spaniards, which were to put off this point till they had got their favourite scheme brought about by our assistance. Accordingly, by the 6th article of the same treaty we find, that "commissaries should be nominated with sufficient powers on the part of their Britannic and Catholic majesties, who shall assemble at the court of Spain, within the space of four months after the exchange of the ratifications of the present treaty, or sooner if it can be done, to examine and decide what concerns the ships and effects taken at sea on either side, to the time specified in the preceding article. The said commissaries shall likewise examine and decide, according to the treaties, the respective pretensions that relate to the abuses that are supposed to have been committed in commerce, as well in the Indies as in Europe, and all the other respective pretensions in America, founded on treaties, whether with respect to the limits or otherwise. The said commissaries shall likewise discuss and decide the pretensions which the king of Spain may have, by virtue of the treaty of the 7th of king George I, for the restitution of the ships taken by the British fleet in the 5th of the said king. And the said commissaries, after having examined, discussed, and decided the above-said points and pretensions, shall make a report of their proceedings to their Britannic and Catholic majesties, who promise that within the space of six months after the making of the said report, they will cause so be executed, punctually and exactly, what shall have been so decided by the said commissaries."

This article, my Lords, seems to have been inserted into the treaty, on purpose that all the advantages we could expect by it might be frustrated. Before the commissaries could meet and decide upon the several pretensions of the contracting powers, the Spaniards were sure the design they proposed by the treaty would be effected. Accordingly we found, that no sooner had our arms and councils introduced Don Carlos into Italy, than new difficulties against the meeting of the commissaries were started; and when they met, not one point that concerned the purpose of their meeting was adjusted. And, my Lords, it is remarkable, that though the 8th article of the same treaty gives the commissaries three years from the signing of the treaty to finish their commission, yet by the 9th article we find that the 6,000 men of the king of Spain's troops and in his pay, are to be introduced into the garrisoned places, without loss of time. All these circumstances, when compared together, must give every one strong inclinations to believe that the Spaniards never meant to fulfil one article of that treaty, so far as it was in our favour; and I cannot help thinking that our ministers both here and at the court of Spain, have been monstrously imposed upon, in not obtaining from the Spaniards clear and explicit reasons why that treaty was not fulfilled on their parts, as well as it has been on ours. Had this, my Lords, been done, his Majesty and his parliament might have judged what measures were necessary to oblige the Spaniards to regard the faith of treaties, and our ministers stood so far acquitted. This way of proceeding must likewise have prevented the scandalous insults that have wounded the honour of this nation, and the unjust depredations that have almost destroyed the freedom of her commerce. And, my Lords, though it should be granted, that the applications made on the part of his Majesty at the court of Spain have been in the manner the most agreeable to treaties, yet give me leave to say, they have not been made in the manner that was most agreeable to the sense and the interest of this kingdom.

The noble duke seemed to be of opinion, that if we should now enter into a war with Spain we might awaken the jealousy, and draw upon us the ill offices of the other powers in Europe. My Lords, I am far from thinking war eligible when it is not necessary; but if it cannot be denied to be sometimes necessary, let the noble duke shew us when it can be more so, than at present: if his argument proves that we must not now assert our rights by arms, it proves equally that we must never assert them. I am entirely of his grace's opinion, that the preservation of the Spanish dominions in America in that crown has been a point much regarded by the powers of Europe; but why should they be less jealous of an exorbitant growth of the strength of Spain there, than the just privileges of the British commerce? Or why should we imagine that the princes of Europe should resent the enforcement of treaties in which themselves concurred? Neither the capacity of our negociators, nor the honesty of our neighbours are much complimented by this supposition.

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I think we have already given sufficient proofs, that neither avarice nor ambition have any share in our demands upon Spain; nor is it to be imagined, if our ministers had talked in a higher strain, that France and Holland, the powers which the noble duke seems most to apprehend, would have been jealous of any attempt to dismember the Spanish monarchy. The first of these powers seems at present too intent upon other pursuits, to meddle in any commercial differences betwixt us and Spain; and I believe she has entered into no private stipulations to favour that crown, in case of a rupture; for how could such stipulations have escaped the vigilance of our ministers? The noble duke himself gave us a very good reason to believe, that France would continue neutral; which is, that they cannot gain so much by making themselves parties in the war, as they may gain by observing an exact neutrality, as they have thereby an opportunity of engrossing the most valuable branches of our commerce with Portugal, Spain and Turkey. So that if this argument of the noble duke's be good, we could have had nothing to apprehend from any immediate interposition of France in favour of Spain. But I think even this fear is chimerical; for though during the heat of war, our commerce in those parts might be interrupted, yet it must soon return to its former channel. The Portuguese would be guilty of the most egregious folly and ingratitude, should they suffer any other nation in Europe to rival us in trade with them. The Spaniards themselves must purchase our commodities; which has given rise to this proverb in Spain, 'Peace with England, and war 'with all the world besides.' And, my Lords, as to our Turkey trade, I do not see what the French could have done more in a time of war with Spain to supplant us there, than they are doing every day. The Dutch on the other hand have long complained of the same treatment from Spain that we complain of; and should we enter into a war with Spain, all the rules of policy oblige them to second our attempts. I believe indeed that the present situation of their public affairs, is such as deprives them of the means of giving us that assistance which both their inclinations and interests direct. But, I dare say, my Lords, that if they are not able to afford us their good offices, we shall have no reason to be afraid of their ill ones. However, bad as their circumstances may appear, if my information is true, they have not put up with the depredations and insults of the Spaniards so tamely as some of their neighbours, who are much more capable of doing themselves justice. Nor can I hear that their conduct has been as yet attended with any bad consequences; and if, my Lords, there were any danger of their repenting of the resolution with which they have acted, I think we ought to assist them as much as possible. But I believe their conduct may have a contrary effect; and may make the Spaniards sensible how dangerous it is to provoke a people who have no other means of subsisting but commerce, and whose merchants are the support of their state.

As to the instances the noble duke gave, in which it may be necessary to yield a little from the rigour of our demands; so far as I have looked into the list of captures, and the papers lying before us, I cannot find that any British ship, seized by the Spaniards, upon the strictest examination, appears to have been concerned in the prohibited trade with their settlements. I see, indeed, many instances of our ships and men being seized, against whom nothing can be pretended but that they were within sight of the Spanish coast; I see that others were seized for reasons still more frivolous, and several for no reason at all; at least, for no other reason than that they were British vessels: And, my Lords, granting it is true, as the noble duke alledges, that some of our merchants carry on a prohibited trade in the Spanish dominions in America, that can never take away the justice of entering into a war, in order to force the Spaniards to observe their faith, and to indemnify the fair traders of this nation, whom they have robbed and plundered. For I will suppose, that if any of the subjects of Great Britain have been concerned in such illicit trade, the Spanish governors have done all they could to prevent it, and have seized their vessels as often as they have had opportunity. But these instances never can become a national concern, because it is no more than if a government were to punish a highwayman or a pirate. Besides, my Lords, I cannot understand the law of punishing a man, and then trying him; for such, I apprehend, is the case which the noble duke brought to prove that there was a necessity to treat with the Spaniards before we fight with them. If a Spanish guarda costa should, in a suspected latitude, board, and make prize of a British vessel, and when the process of confisca-

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tion comes to be carried on, if it should appear that the goods on board the British vessel had been taken in at one of the Spanish ports in America; I shall not enter into the dispute how far such ship became a lawful prize; but I think it can admit of no dispute, that the owners and crew of that ship were punished before they were tried: For I take it to be a very great hardship put upon the master and crew of a vessel, that they are stopped from proceeding on their voyage, and should be glad to know, if it had appeared that such a vessel had not been concerned in an illicit trade, how her owners could have recovered damages from the Spaniards. Therefore, my Lords, though I know that the first resolution we have come to, may prevent the Spanish practice of stopping and searching our vessels on any pretence whatsoever for the future, yet I cannot see why our ministers should not have sent, in plain terms, to the court of Spain, that there is not one instance of their depredations for which we require reparation, that was not a direct breach of their friendship with us; and, my Lords, though I am far from thinking that any one of these instances was a sufficient reason for our breaking with Spain, yet I think, that if that court pretended to justify any of the captures that appear in the list before us, we had acted both prudently and honestly had we forced them to have renounced their claim; because there can be no reasons given for their making prize of any one of these vessels, that would not equally justify their making prize of all the merchant-men his Majesty has in his ports.

The noble duke was pleased to give us an account, from the copies of the memorials lying before us, of the instances made by our minister at the court of Spain; and his grace seemed to be of opinion, that nothing was omitted by him that could be urged in favour of our merchants. My Lords, I shall for once grant that this is fact. But give me leave to say that the Spaniards are, for that reason, the more inexcusable; and we might have been more easily justified, had we proceeded to other arguments than those in the instructions and memorials. Therefore, upon the whole, I cannot help being of opinion, that we have not acted, in this affair, with that vigour and resolution, which the dignity of our crown, or the importance of the affair required: But where the fault lies, I shall not pretend to point out.

The Lord *Hervey*:

My Lords; I beg leave to observe, that the noble lord, who spoke last, seems to have lost view of the principal intention of the resolutions now before us; which is, if I am not mistaken, to lay before our most gracious sovereign the sense of this House, with regard to those points that ought to be the basis of any future negociation with Spain; and at the same time, to give his Majesty the strongest assurances of our resolution to stand by him in those measures he shall judge most effectual for preserving our rights of commerce, and obtaining satisfaction for the damages that our merchants have sustained by the Spaniards: but I humbly presume, that at present we are not met to censure the conduct of his Majesty's ministers for what is past.

I think the noble duke made it unanswerably plain, from the very words of our memorial presented to the Court of Spain, that we have, in the strongest terms, asserted our claim to a free and uninterrupted navigation in the American seas; and this I think the noble lord who spoke last seemed to allow, for his lordship did not mention any particular points in which their representations to that purpose were defective. But, says the noble lord, why were we contented with giving in memorials and representations? or why did we so tamely bear the breach of the treaty of Seville? This, my Lords, I take to be the whole of what his lordship has insisted on; and, in my opinion, it admits of a very short answer. Immediately after that treaty, the affairs of Europe, from contingencies that were unavoidable, and impossible to be foreseen, took a very unexpected turn; such a turn, my Lords, as rendered it highly unadvisable in us to enter into an immediate war with Spain. But, my Lords, though our forbearance might perhaps have but too much encouraged them in their interruption of our American trade, this encouragement was amply compensated by an increase of our trade, which by means of our neutrality we enjoyed with other places of the world, while most of our neighbours were involved in quarrels with one another. Thus our claim upon the Spaniards was indeed upon very good grounds delayed, but not given up; and it appears, that when the proper time came, we did not fail to assert it.

I generally observe, my Lords, that when this subject is mentioned by one

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party in the nation (I hope we have no parties in this House) they go very near to assert that there is not a shilling comes to us by our trade with any other quarter of the world but with America. My Lords, I acknowledge that our American trade is very beneficial, but I neither think that the Spaniards have entirely ruined it, nor that it would have been prudent in us to have endangered the general interests of the nation, before the several losses our merchants complain of had been verified upon a parliamentary enquiry. I shall readily allow that they are now properly vouched, and that the ministry will act a part very inconsistent with the good of the kingdom, if they do not exert themselves in such a manner as may procure us ample satisfaction. But if this is obtained by negociation, it must be much more agreeable to those who have the interest of their country alone at heart, than if, in order to obtain it, we rush into a war, of which nobody can foresee the consequences. His Majesty, by the seasonable preparations he has made, and the orders he has given, will make Spain and all the world sensible that he is resolved upon the alternative, either of obtaining an advantageous peace, or entering into an immediate war. And, my Lords, we have the pleasure of seeing that his Majesty's conduct has had one good effect, by inducing the king of Spain to give orders for releasing such of our sailors as were imprisoned. This, my Lords, made a considerable article of our merchants complaints; and why may we not hope for as effectual a redress as to the other Articles? Or, why should any lord make any difficulty of agreeing to a Resolution, which is so strongly supported by the papers lying upon our table? Our giving the world reason to suspect that his Majesty is ill served by his ministers, when the contrary appears so evidently, can never contribute to the recovery of our honour and the discouragement of our enemies. And I cannot but be of the noble lord's opinion, who said, that our unanimity in this affair was the most effectual expedient for promoting our interest.

Upon the question, the first Resolution, as it stood amended, and the other Resolutions, as proposed by the noble lord, were agreed to without any division; and a committee being named to draw up an Address to his Majesty, with the Resolutions, after having retired a small time, they returned with an Address drawn up, which was agreed to without division, and presented next day by the whole House to his Majesty.

The Lords' Address to the King on the Spanish Depredations.] The Address was as follows:

"Most gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, having taken into our serious consideration the many unjust violences and depredations committed by the Spaniards, upon the persons, ships, and effects of divers of your Majesty's subjects in America, have come to the following Resolutions, which we beg leave in the humblest manner to lay before your Majesty, for your royal consideration, viz.

"1. Resolved, That the subjects of the Crown of Great Britain have a clear and undoubted right to navigate in the American seas, to and from any part of his Majesty's dominions; and for carrying on such trade and commerce, as they are justly entitled unto in America; and also to carry all sorts of goods and merchandizes, or effects, from one part of his Majesty's dominions to any part thereof; and that no goods, being so carried, are by any treaty subsisting between the Crowns of Great Britain and Spain, to be deemed or taken as contraband or prohibited goods, and that the searching of such ships on the open seas, under pretence of their carrying contraband or prohibited goods, is a violation and infraction of the treaties subsisting between the two Crowns.

"2. Resolved, That it appears to this House, that as well before, as since the execution of the treaty of Seville, on the part of Great Britain, divers ships and vessels, with their cargoes, belonging to British subjects, have been violently seized and confiscated by the Spaniards, upon pretences altogether unjust and groundless; and that many of the sailors on board such ships have been injuriously and barbarously imprisoned and ill-treated; and that thereby the liberty of navigation and commerce belonging to his Majesty's subjects, by the law of nations, and by virtue of the treaties subsisting between the Crowns of Great Britain and Spain, hath been unwarrantably infringed and interrupted, to the great loss and damage of our merchants, and in direct violation of the said treaties.

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"3. Resolved, That it appears to this House, that frequent applications have been made, on the part of his Majesty, to the Court of Spain, in a manner the most agreeable to treaties, and to the peace and friendship subsisting between the two Crowns, for redressing the notorious abuses and grievances before-mentioned, and preventing the like for the future, and for obtaining adequate satisfaction to his injured subjects; which, in the event, have proved entirely fruitless, and of no effect.

"We think it our duty, on this important occasion, humbly to represent to your Majesty, that we are most sensibly affected with the many and grievous injuries and losses sustained by your Majesty's trading subjects, by means of these unwarrantable depredations and seizures; and to give your Majesty the strongest and most sincere assurances, that in case your friendly and powerful instances for procuring restitution and reparation to your injured subjects, and for the future security of their trade and navigation, shall fail of having their due effect and influence on the Court of Spain, and shall not be able to obtain that real satisfaction and security, which your Majesty may in justice expect; we will zealously and cheerfully concur in all such measures, as shall become necessary for the support of your Majesty's honour, the preservation of our navigation and commerce, and the common good of these kingdoms."

The King's Answer.] His Majesty's Answer was as follows:

"My Lords;

"I am sensibly touched with the many hardships and injuries sustained by my trading subjects in America, from the cruelties and unjust depredations of the Spaniards. You may be assured of my care to procure satisfaction and reparation for the losses they have already suffered, and security for the freedom of navigation for the future; and to maintain to my people the full enjoyment of all the rights to which they are entitled by treaty, and the law of nations.—I doubt not but I shall have your concurrence for the support of such measures, as may be necessary for that purpose."

Debate in the Commons on the Button and Button Hole Bill.] March 3. A Petition of the Manufacturers of Raw Silk and Mohair, and of Needle-work Buttons, was presented to the House, and set forth:

"That raw silk and mohair, employed in making button-holes, being commodities that are purchased in Turkey, and other foreign parts, in exchange for the woollen and other manufactures in the kingdom; the parliament, for the greater encouragement of the consumption of the said commodities, had passed an Act, in the 7th of his late Majesty, entitled, 'An Act 'for employing the manufacturers, and 'encouraging the consumption of raw silk 'and mohair, by prohibiting the wearing 'of buttons and button-holes made of 'cloth, serge and other stuffs.' In consequence of which, and other acts of the like tendency, many thousands of families were preparing silk, mohair, yarn and thread, employed in making of buttons and button-holes with the needle. But that in evasion, and contrary to the intention of the said Act, great quantities of stuffs made of horse-hair, or mixed therewith, have been lately wove in narrow breadths or slips, and used only for making and binding of buttons and button holes, to the great detriment and impoverishing of many thousands, who had no other way of subsisting but by working of buttons and button-holes with the needle, and prejudice of the woollen manufactures of the kingdom. And therefore the petitioners prayed that the House would give leave that a Bill be brought in, to explain the said Act, and that the petitioners be relieved in such manner as to the House shall seem meet."

March 19. This Petition being referred to the consideration of a Committee, Mr. Cholmondley made the report from the said Committee, and leave was given to bring in a Bill according to the desire of the Petition. The Bill was accordingly presented, and read for the first time on the 24th; but before it came to a second reading, several petitions were presented from the manufacturers and dealers in woven buttons, praying to be heard by counsel against the Bill. The petitions were ordered to lie upon the table, as were also petitions from the manufacturers and traders in the needle-work buttons in the several towns in England, expressing their apprehensions that the general trade of the kingdom would be affected, and the exports of the woollen and other manufactures to Turkey greatly decreased, and many thousands of themselves reduced to great indigence, if the said Bill did not pass into a law.

April 10. The Bill was read a second

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time, and counsel being heard both for the Bill and against it, and several witnesses examined, the Bill was committed.

April 18. Mr. Cholmondeley reported from the Committee, that they had found the allegations in the Bill true; upon which the Bill, with the amendments made in the Committee, were ordered to be engrossed.

April 25. The Bill was read a third time, and the question being put that it do pass,

Mr. *Henry Fox* spoke as follows:

Sir; I do not stand up to oppose this Bill from any consideration how far particular persons may be affected by its fate, but from a conviction that, instead of its being of real service to the commerce or manufactures of the kingdom, if it passes into a law, it may do hurt to both. I have heard the witnesses both for and against the Bill examined; I was likewise present when the counsel on both sides was heard at the bar of the House; and by what I could gather from the evidence of the one and the pleadings of the other, the practice of weaving buttons can never prevent any of the good consequences that were intended by the several acts of parliament, in favour of the consumption of raw silk and mohair, from being effectual; and that the manufacture which the Bill is intended to destroy, ought to receive the greatest encouragement from the legislature. Therefore, Sir, till I hear better reasons in support of this Bill than any I have yet heard, I must be against our passing it into a law.

Mr. *Cholmondeley* said:

Sir; I have the misfortune to differ so much from the hon. gentleman who spoke last, that I think, if ever any Bill of this kind deserved the encouragement of the legislature, the present does. I think it is generally allowed that one of the characters of a beneficial trade, is, when a nation exports of its manufactures and native commodities for such goods as receive a further manufacturing in that nation. Former parliaments seem to have been so sensible, that the importation of raw silk and mohair was of the greatest advantage to the nation, by increasing the export of our woollen and other manufactures, that few branches of trade have met with greater encouragement from the legislature, than the making of buttons and button-holes with the needle. So far back as the 14th year of Charles 2nd, this House thought a Petition from the manufacturers of wrought buttons and button-holes so worthy their consideration, that an Act was passed, prohibiting the importation of foreign buttons and needle-work, under the penalty of 50*l.* and forfeiture of the goods so prohibited. The Petition, Sir, that gave rise to that Act, was presented to the House, on the very motive that gave occasion to the Bill now before us; which was the relief of great numbers of the inhabitants of this kingdom, who gained their living, and had been able to relieve their indigent neighbours, and set on work many poor children, by their skill and dexterity in this manufacture; and who were in danger to have been all ruined by the practice, then introduced, of importing foreign buttons and button-holes into the nation.—In the 10th year of king William, the intention of the former acts in favour of this manufacture, had been so much frustrated by the making and wearing buttons made of shreds of cloth, camblet and other stuffs, that numbers of poor people employed in manufacturing buttons with the needle, were thrown upon their respective parishes: this induced the legislature to pass an Act just of the same nature with that now under our consideration; by which, buttons made of cloth, or any of the stuffs of which wearing apparel was usually made, were prohibited. But as this Act did not extend to button-holes, in the 8th year of queen Anne an act passed, which took notice, that the intention of the last Act had been of late, in a great measure, rendered ineffectual by an artificial and unforeseen practice of making and binding button-holes with cloth, serge and other stuffs, to the utter ruin of numbers of families. Therefore, button-holes as well as buttons, made of, or bound with such stuffs, were prohibited under the penalty of 5*l.* per dozen on the tailor, seller, or maker of any such buttons or button-holes so prohibited. But this Act, Sir, proving no more effectual than the former acts I have mentioned, for answering the good intentions of parliament, an Act was made in the 4th year of his late Majesty, by which all clothes and wearing garments made with buttons and button-holes, prohibited by the former Acts, were liable to be forfeited and seized, except where the clothes were made of velvet. It might have been reasonably hoped, Sir, after such precautions taken by parliament, that the good ends proposed by the several

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acts I have mentioned would have been no longer eluded; but in the 7th year of his late Majesty some further regulations on this head were found absolutely necessary. Some gentlemen who are present may remember, that at that time the only method that could be thought of for that purpose, was to extend the penalty to the wearer of such prohibited buttons and button-holes, as well as to the maker and tailor. This gave occasion for passing the Act entitled, 'An Act for employing the 'manufacturers, and encouraging the con-'sumption of raw silk and mohair yarn, 'by prohibiting buttons and button-holes 'made of cloth, serge or other stuffs.' And by this Act a penalty was laid upon the person who wore such prohibited buttons and button-holes. This Act, for some time, had a very good effect, and the manufacturers, from the encouragement which the parliament has given them from time to time, have made a great many improvements in their trade, and brought it to such a perfection, that they are able not only to supply this nation, but export considerable quantities of them to foreign parts. So that, Sir, another character of a good trade is answered by this manufacture, which is, the manufacturing and improving, in order for a re-exportation, a commodity that is imported. Therefore, Sir, this act deserves the countenance of the legislature as much, if not more, than any act relating to our manufactures, that has passed this House for some years: first, as it tends to take off large quantities of a staple commodity of this nation; and, secondly, as it adds to our exports: both which in a nation that subsists by commerce are of the greatest consequence.—But, Sir, besides the advantages I have already mentioned, it is easy to make it appear that the encouragement given to this manufacture is a considerable ease to the landed interest. I could name, Sir, many places of the kingdom, where the poor, if not employed in this manufacture, must be either thrown upon their respective parishes, or obliged to beg their bread. I dare say, Sir, that in the several towns and cities from which petitions have come before this House in favour of the Bill, there are no fewer than 140,000 inhabitants who are incapable to get their bread in any other way than by applying to this business. For, give me leave to observe, that in this manufacture, there is one thing peculiar, which is, that there are few infirmities either of age or sickness, that disable the manufacturers from applying themselves to some branch of it, either in twisting the yarn, making the molds, or sewing the buttons; besides many other smaller arts that are absolutely necessary for carrying it on. This, Sir, may be the reason why so great numbers are employed in this manufacture, and why some traders have found their account in employing all their stocks, which often are very considerable, that way.—Having thus laid before you, Sir, the advantages arising to this kingdom from the carrying on and improving this manufacture, I shall beg leave to trouble the House with a few words more, with regard to the discouragement which it must meet with, if this act should not pass. The late practice of weaving silk and mohair in looms, for the making of buttons and button-holes, is but in a very few hands, when compared with the numbers who get their bread by the needle-work manufacture, and, if encouraged, may, in a short time, quite frustrate the intentions of the former acts relating to this affair. Those buttons that are covered with slips wrought in the loom, not being distinguishable from those covered with shreds of camblet or other stuffs, cannot fail of encouraging that practice, which, as the act of the 7th year of his late Majesty is still in force, may put the subjects to very great inconveniencies. For instance, if a gentleman should employ a roguish taylor to make him a suit of cloaths, and the taylor, instead of giving him buttons either made with the needle, or woven in the loom, shall give him those covered with shreds of camblet or other stuffs: in such a case, the gentleman, Sir, is liable to a penalty, though quite innocent of any intention to break this act of parliament: so that, Sir, this practice of weaving buttons is not only subject to the inconvenience I speak of, but gives a handle to intolerable impositions and frauds that may be practised by tradesmen. We had a remarkable instance, Sir, how easily this fraud may be practised, in the evidence given in at the bar of this House, by some of the principal witnesses brought to support the arguments of the counsel against the Bill. When a parcel of buttons was laid before them, some woven in the loom, others made of shreds of camblet and other such stuffs, though it was pretended that the one might be easily distinguished from the other, yet none of the evidences could possibly say which was the one or which was the other, till they had looked to that part of the button that is sewed to the

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coat; and not even then without great difficulty; for some of them were obliged to go to the light, in order to view them more narrowly, and after all some of them were mistaken, and others could not positively distinguish them. If it was so hard, Sir, for these evidences, who are themselves manufacturers and dealers in woven buttons, how hard must it be to me, or another man who knows nothing of the matter! but, Sir, besides this inconvenience to particular persons, such a practice must soon very much affect the trade of the nation. The practice of making buttons of shreds of stuff will in a short time become common amongst our lower and middling sort of people, and do great prejudice both to the exportation of woollen manufactures, and to the numerous dealers in needle-work buttons at home: by diminishing the demand for raw silk and mohair, we diminish the exports of our woollen goods; and by encouraging woven buttons, we endanger the sale of the commodities in foreign markets; and thereby we may diminish another branch of our exports. For, Sir, let us suppose that a foreign dealer gives commission to a factor here for a parcel of buttons; the factor, either through ignorance or design, sends him buttons covered with shreds of camblet or other stuff, instead of buttons woven in the loom. Is it not plain, Sir, that such a practice must soon prove the ruin of this branch of trade, and intirely sink the credit of those who deal in it in foreign markets? But this, Sir, is not the only bad consequence that will attend our not passing this Bill into a law. It will be evident to any gentleman, who shall take the trouble of reading former acts that have passed on this head, that in passing them, the legislature had an eye not only to the encouragement of the consumption of raw silk and mohair, and the exportation of our staple commodities, but likewise to the employment and subsistence of many thousands of men, women and children, who must have been very burdensome to the public, had it not been for the needle work manufacture. And give me leave to say, Sir, that if the common maxim is true, that that manufacture is most profitable for a nation which employs the greatest number of hands; the manufacture of needle-work buttons deserves the attention and encouragement of parliament perhaps better than any other in the kingdom. For in the preamble of the act of the 10th of king William, no less than five different kinds of workers are mentioned to be employed in preparing the materials for making the buttons. Therefore, Sir, I think by all the rules of good policy, we are obliged to second the intentions of former parliaments in favour of this manufacture, by passing the Bill now before us. It has already employed great part of our time this session, and every step made in it has been taken upon the most mature deliberation, and after weighing all the consequences that can attend it of every kind. By passing this act we do no more than former parliaments would have done, had the inconveniency complained of been foreseen at the time of passing the several acts I have mentioned; and in not passing it, I am afraid all their intentions, in favour of this manufacture, may be rendered ineffectual.

Mr. *Henry Archer* said:

Sir; I shall readily agree with the hon. gentleman who spoke last, that the manufacture now under our consideration is of very great consequence to the trade of this kingdom, and that it has from time to time met with great encouragement from the legislature. Therefore, Sir, if I thought that the good ends proposed by former parliaments had been rendered ineffectual, and that our passing the present Bill could render them more effectual, I should be far from opposing it. But, on the other hand, as I am persuaded that it can no way answer that purpose, and at the same time, that it tends to do a manifest injustice to many of his Majesty's subjects in their private properties, I shall beg leave to give my reasons why I think myself obliged to oppose it.—The design of the encouragement, which the manufacturing of raw silk and mohair into buttons and button-holes has met with, was principally, as the hon. gentleman who spoke last seemed to allow, to increase the exportation of our woollen manufactures: therefore, Sir, I think it undeniably follows, that if the manufacturing of buttons by weaving them in the loom, consumes as much raw silk and mohair as working them needleways, it effectually answers the chief end proposed by former acts of parliament that relate to this manufacture. But by the manner in which the honourable gentleman reasons on this head, one should be apt to think that these acts restrained this manufacture to be carried on by the needle alone, and laid a prohibition upon all

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other methods of improving it. But this, Sir, is a consequence that can never be admitted by any one who either looks into these particular acts, or understands the nature of our laws in general. If these words needle and needle-work occur in these acts, it can be for no other reason but because no other words were known at that time to express the manner of manufacturing of raw silk and mohair into buttons. Had the practice of weaving them in the loom been at that time known, I think we have not the least reason to doubt that the same acts would have regarded that manner of exercising this art, as well as the other by the needle. So that, Sir, I humbly conceive, if it can be proved, 1st, that not a less, but rather a greater quantity of raw silk and mohair is consumed by the loom manufacturers, than by the needle-workers: 2dly, that there is no weight in the hon. gentleman's argument drawn from the great numbers of hands employed in the needle-work manufacture: and lastly, that the dealers in the loom manufacture have in proportion exported greater quantities of their goods than the needle-workers have done; I say, Sir, if these three points can be made appear, as I shall undertake to do, then the arguments advanced in favour of this Bill must fall to the ground.

The gentlemen who were present when the witnesses against the Bill were examined at the bar of this House, may remember, that it appeared by some of them who had weighed the materials employed in covering a dozen of needle-work buttons with the same quantity of woven buttons, that the latter exceeded the former in weight; and that, after the woven buttons were made, the manufacturers were obliged to cut off some part of the list from each button, where it was sewed to the coat, which waste still increases the consumption of the materials. Nor could the evidences for the Bill, Sir, deny, that there was at least an equal consumption of the materials in the one manufacture as in the other. From hence, Sir, it is evident, that the carrying on this manufacture by the loom effectually answers the intention of the acts passed in its favour. As to the hon. gentleman's other arguments, drawn from the number of hands employed in the needle-work manufacture, which was the second point I proposed to speak to, it is, in my humble opinion, a very good argument for dismissing this Bill; because, as the manufacture may be carried on by a much fewer number of hands, with equal advantage to our trade in general, those who are employed in the needle-work way, are so many hands taken from other arts and other manufactures, in which they might be employed to much better purpose. I believe, Sir, it is not unknown to some gentlemen in this House, that many of our manufactures, very beneficial to the nation, labour under great disadvantages from the dearness of wages, occasioned by the scarcity of hands employed in them. But that inconveniency would be soon removed, if the useless people employed in this and other manufactures were turned over to the manufactures that absolutely require them. Thus the hon. gentleman's objections arising from his tenderness for these poor people, deprived of this way of earning their bread, will be removed to the advantage both of the kingdom, and perhaps of themselves. But to convince gentlemen how unreasonable this very argument is, I shall beg leave to apply it to other cases, where a manufacture or an art has received farther improvements by carrying it on with fewer hands. There was a time, Sir, when all the learning of this kingdom, and the rest of Europe, was contained in manuscripts, the writing of which employed great numbers of hands, and took up a vast deal of time in re-copying. But, Sir, how ridiculous would it have been, if on the discovery of the art of printing, the transcribers and copyers of those manuscripts had joined in a petition to the legislature, that it would be pleased to prohibit the art of printing, for the same reason which the hon. gentleman now uses, because great numbers would thereby be deprived of bread! But admitting, Sir, this instance should be thought a little foreign to the present purpose, I shall beg leave to mention another, which, I think, exactly answers the case of the petitioners for this Bill: the manufacturing of wool, silk, and thread into stockings, when that manufacture was carried on by knitting, gave bread to, I believe, as great numbers of people, as the manufacture of needle-work buttons now does. But, Sir, I never heard that, when the invention of working stockings in the loom was introduced, great numbers of the subjects were reduced to want, and in danger of starving; or that any application was made to parliament in their behalf. In all civilised countries, Sir, inventions for the improvement of arts and manufactures have been

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encouraged; sometimes rewards, and sometimes exclusive rights to exercise them, have been assigned to the inventors, who are always looked upon as benefactors to their country.

Not only his Majesty, and the general approbation of the nation, gave a sanction to a late invention for improving one branch of the manufacture of raw silk, but this very House rewarded the ingenious inventor with a present of 14,000*l.* This excellent invention enabled us to carry on the manufacture with fewer hands than it required before, and was therefore justly looked upon as a public advantage. Now, Sir, I should be glad to know, if gentlemen would not have thought it a very ridiculous step in the former manufacturers, if they had presented a Petition to this House, setting forth, that "if the use of the engine invented by sir Thomas Lombe,* was not prohibited by the parliament, many thousands of the petitioners would be in danger of wanting bread." I believe no gentleman can shew me wherein a Petition of this kind is different from the Petition that gave rise to the Bill now under our consideration. Nor can I imagine that any argument can be advanced in favour of this Bill, that does not equally serve against the improvement, nay the invention of any manufacture. The longitude, Sir, is a discovery that would consequently be a great improvement of navigation, by rendering it more safe, and voyages performed in a shorter time, and so make less employ for mariners. Were an ingenious man to discover the longitude, would not our sailors have as good reason to petition this House against that improvement of their art, as the needle-workers have to petition us against the improvement of theirs? and would they not have the same right to redress? Having therefore, I hope, shewn that this argument, drawn from the greater number of hands employed in the one manufacture than are employed in the other, is unreasonable in itself, and attended with the grossest absurdities, I shall now proceed to consider what effect this improvement can have upon our exports.

I believe, Sir, it cannot be disputed that the cheaper a manufacture is carried on by a nation, the greater quantities of that manufacture will that nation be able to export. This truth, I am afraid, appears but too plain in the present state of the British manufactures; in which our neighbours, the French, being able to furnish the same commodities at a cheaper rate, undersell us at most of the markets in Europe. Therefore, I think, Sir, it is undeniable that every improvement, which, by diminishing the number of hands required in a manufacture, reduces the price of the commodity, ought to meet with encouragement from this House. That the method of weaving buttons is more expeditious than that of needle working, has I think in effect been owned by the hon. gent. and the counsel who have spoke for the Bill. Now, Sir, the more expeditious the method, the greater is the reduction of hands employed: because, if a man who now deals to the value of 6,000*l.* a year in buttons, is obliged to employ 8 hands every day; if four hands, Sir, can do the same work that these eight hands can do; and in as short a time, he can discharge four of his hands, and thereby save half his expences; consequently he will be able to serve a foreign market at a cheaper rate than he could before have done. The good effect of the reduction of hands employed in this manufacture appears from the examination of the witnesses against the Bill: for it has been proved, Sir, that, notwithstanding the obstructions they have met with from the petitioners for the Bill, the loom manufacturers have exported larger quantities in proportion to the number of dealers, than the needle workers have yet done; and there is, Sir, an obvious reason for it, which is, that the loom manufacturers not only can afford their commodities much cheaper than the needle workers can, but their commodities are much better in their kind, much nearer, and more lasting, as has been fully proved at the bar of this House. There is, I think, only one objection more, which I shall beg leave to answer: the petitioners for the Bill alledged, that in the loom manufacture many materials are used which are not mohair, and that therefore the loom workers in some measure elude the intent of the acts of parliament, made for encouraging the consumption of that commodity. This allegation might have had some weight; but unfortunately for the petitioners, it is not grounded on fact. For the loom manufacture does not elude the intention of these acts of parliament, because, though the manufacturers indeed, make use of some some materials besides mohair and raw silk, yet when the mohair and raw silk of an equal number of

* See Vol. 8. p. 924.

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buttons are weighed, the materials employed in the loom exceed those of the needle workers; and the other materials employed in each button, are not so heavy as the waste of the raw silk and mohair which the loom manufacturers are obliged to make. But, Sir, besides this answer drawn from a plain fact, that appeared at the bar of your House; give me leave to say, that this objection against the loom manufacture is a very strong reason that we ought to support it; for, as the intention of these acts was to encrease the consumption of our commodities, therefore, whatever best answers that intention, best deserves our encouragement. Now, Sir, it appears that the materials, besides those of raw silk and mohair, made use of by the loom manufacturers, are the produce of this kingdom; it appears that their using them does not diminish the consumption of the other commodities; and therefore it undeniably follows, that the loom manufacture is best calculated for answering the intentions of the legislature.

Having thus, Sir, I think, obviated the principal arguments in favour of the Bill, I shall now beg leave to put gentlemen in mind, that, by passing it, we shall do a thing which I am sure every gentleman in this House would willingly avoid. We make an encroachment, Sir, upon the private property of our fellow subjects. We deprive them of the natural right which every man in a land of liberty ought to enjoy, of gaining bread in an honest and lawful way. Nay more, Sir, we give a total discouragement to any future improvement of arts and manufactures. How will it sound, to after times, that in a reign remarkable for the encouragement of all the arts, especially those of commerce, a British parliament, by one act, prevented all future improvement of any of these arts: let us not, Sir, draw upon us the imputation of so much barbarism, let us not give our neighbours so just a handle of reproach; but let us remember, that not only the present but future ages are concerned in every step of this nature we shall make. Had our ancestors, Sir, discouraged the improvers of arts and manufactures, they could have had no title to the gratitude of their posterity. And, Sir, give me leave to add, that in England the advancement of the liberal, is but the consequence of the encouragement given by the legislature to the improvement of the commercial arts. In all ages and countries they have gone hand in hand, they have risen and fallen with one another, and whatever has affected the latter, has always proved fatal to the former. Therefore, Sir, I am against our passing this Bill.

The question being put, the Bill was rejected. Yeas 85, Noes 111.

DEBATE IN THE COMMONS ON A RESOLUTION PROHIBITING THE PUBLICATION OF THE DEBATES OR OTHER PROCEEDINGS OF THE HOUSE.]* April 13. Several persons were examined at the bar of the House from counterfeiting the Hands of some of the members in Franks; and they owning the offence, some of them were committed to the custody of the Serjeant at Arms, and others of them to Newgate.

After which the *Speaker* informed the House, that it was with some concern he saw a practice prevailing, which a little reflected upon the dignity of that House: what he meant was the inserting an Account of their Proceedings in

* See the Preface to the present Volume.

"The Spanish affairs so much occupied the public attention, that all other considerations were totally overlooked. Had not this been the case, a Resolution made this session, would have attracted public notice, and have incurred the censure of those writers who affect a high regard for the liberty of the press. I allude to the enforcement of the Standing Order, prohibiting the Publication of the Debates while the House was sitting, and the extension of that prohibition to the recess. It is remarkable that this Resolution passed without a single dissenting voice, and with little public animadversion. It is no less remarkable, that not one of our historical writers has taken the smallest notice of the debate. This Resolution was not followed by any beneficial effects; on the contrary, it tended only still farther to excite public curiosity, while it rendered truth more difficult of access. It compelled the compilers of periodical publications to adopt a covert method of giving the Debates, which made it more easy to falsify them, and it is a well known fact, that after this period, the accounts became less authentic than before. The Gentleman's and the London Magazine were the principal vehicles of the parliamentary debates. The Gentleman's Magazine published the debates in the senate of Lilliput, under the names of Lilliput and Brobdignag, and the London Magazine gave a journal of the proceedings and debates in a Political Club, with Roman appellations. Each miscellany afterwards explained these fictitious titles in advertisements affixed to the respective volumes." Coxe's Memoirs of Sir Robert Walpole.

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the printed News Papers, by which means the Proceedings of the House were liable to very great misrepresentations. That he had in his hands a printed News Paper, which contained his Majesty's Answer to their late Address, before the same had been reported from the Chair, the only way of communicating it to the public. That he thought it his duty to inform the House of these practices, the rather because he had observed them of late to have run into very great abuses; and therefore he hoped that gentlemen would propose some method of stopping it.

Sir *William Yonge* hereupon rose and said:

Sir: I am very glad you have mentioned this affair. I have long looked upon it as a practice very inconsistent with the forms and dignity which this House ought always to support; but since you have been pleased to mention this from the Chair, I must beg leave to carry my observations a little farther. I have observed, Sir, that not only an account of what you do, but of what you say, is regularly printed and circulated through all parts, both of the town and country. At the same time, Sir, there are very often gross misrepresentations, both of the sense and language of gentlemen. This is very liable to give the public false impressions both of gentlemen's conduct and abilities. Therefore, Sir, in my opinion, it is now high time to put a stop to it. Not that I should be for attacking the Liberty of the Press; that is a point I would be as tender of as any gentleman in this House. Perhaps some gentlemen may think it indeed a hardship, not to be able to find their names in print, at the head of a great many fine things, in the monthly magazines; but this, Sir, can never prevent gentlemen from sending their speeches, if they please; it only prevents other gentlemen from being misrepresented, as to what they say, which, Sir, I am sure is what every gentleman in this House will wish for. Therefore, I hope gentlemen will consider of some method of putting a stop to this abuse, more effectual than we have fallen upon yet. There is, indeed, a Resolution on our Journals, against printing or publishing any of the Proceedings of this House, but by authority of the chair; but people had generally run away with the notion, that this prohibition is in force only during the time we are sitting, and that as soon as the session ends, they are at liberty to print and publish what they please: therefore, I hope gentlemen will come into a Resolution, for explaining that matter; and if they do, I am very sure that if it is broke through, I myself will move the House, with the very first opportunity, next session. But the printers of the papers, Sir, which you have in your hands, cannot even plead the excuse of the recess of parliament; therefore deserve to be punished; and if you do not either punish them, or take some effectual method of checking them, you may soon expect to see your Votes, your Proceedings, and your Speeches, printed and hawked about the streets, while we are sitting in this House.

Sir *William Windham* spoke next:

Sir: No gentleman can be more jealous and tender than I have always been of the rights and privileges of this House, nor more ready to concur with any measure for putting a stop to any abuses which may affect either of them. But at the same time, Sir, I own, I think we ought to be very cautious how we form a Resolution upon this head; and yet I think it is absolutely necessary that some question should be formed. I say, Sir, we ought to be very cautious in what manner we form a Resolution; for it is a question so nearly connected with the Liberty of the Press, that it will require a great deal of tenderness to form a Resolution which may preserve gentlemen from having their sense misrepresented to the public, and at the same time guard against all encroachments upon the Liberty of the Press. On the other hand, Sir, I am sensible that there is a necessity of putting a stop to this practice of printing, what are called the Speeches of this House, because I know that gentlemen's words in this House have been mistaken and misrepresented: I do not know, Sir, but I have some reason of complaint myself upon that head. I have, indeed, seen many speeches of gentlemen in this House that were fairly and accurately taken; and no gentleman, when that is the case, ought to be ashamed that the world should know every word he speaks in this House: for my own part, I never shall, for I hope never to act or speak in this House, any thing that I shall be ashamed to own to all the world. But of late, Sir, I have seen such monstrous mistakes in some gentlemen's speeches, as they have been printed in our news-papers, that it is no wonder if gentlemen think it high

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time to have a stop put to such a practice.

Yet still, Sir, there are two considerations, which I own weigh very much with me upon this occasion. That this House has a right to prohibit the publication of any of its proceedings during the time we are sitting, is past all doubt, and there is no question, but that, by the Resolutions that now stand upon our Votes, and are renewed every session, the printers of the papers you have in your hand are liable to the censure of this House. But I am not at all so clear as to the right we may have of preventing any of our proceedings from being printed during our recess; at least, Sir, I am pretty sure that people without doors are strongly possessed with that notion, and therefore I should be against our inflicting any censure at present, for what is past of that kind. If gentlemen are of opinion, which I do own I am not, that we have a power to prevent any account of our Proceedings and Debates from being communicated to the public, even during our recess, then, as this affair has been mentioned, they will no doubt think it very proper to come to a Resolution against that practice, and to punish it with a very severe penalty; but, if we have no such power, Sir, I own I do not see how you can form any Resolution upon this head, that will not be liable to very great censure.

The other consideration, that weighs very much, Sir, with me upon this occasion, is the prejudice which the public will think they sustain, by being deprived of all knowledge of what passes in this House, otherwise than by the printed Votes, which are very lame and imperfect, for satisfying their curiosity of knowing in what manner their representatives act within doors. They have been long used to be indulged in this, and they may possibly think it a hardship to be deprived of it now. Nay, Sir, I must go farther: I do not know but they may have a right to know somewhat more of the proceedings of this House than what appears upon your Votes; and if I were sure that the sentiments of gentlemen were not misrepresented, I should be against our coming to any Resolution that could deprive them of a knowledge that is so necessary for their being able to judge of the merits of their representatives within doors. If gentlemen, however, are of opinion that they can frame a Resolution, which will put a stop to all impositions, and yet leave the public some room for having just information of what passes within these walls, I shall be extremely glad to give it my concurrence. But I am absolutely against our stretching our power farther than it will go consistently with the just rights of Parliament; such stretches rather weaken than give any strength to the constitution; and I am sure no gentleman will care to do what may not only look like our claiming powers unknown to our constitution, but what, in its consequences, may greatly affect the liberty of the press. If we shall extend this Resolution to the recess of parliament, all political writing, if the authors shall touch upon any thing that past in the preceding session, may be affected by it; for I do not know that any body would venture to publish any thing that might bring upon them the censure of this House.

In the mean time, Sir, I am as willing as any gentleman in this House, that a stop should be put to the practice you have taken notice of from the Chair. It has grown to such a pitch, that I remember some time ago there was a public dispute in the news-papers, betwixt two printers or booksellers of two pamphlets, which of them contained the true copy of a certain hon. gentleman's speech in this House. It is therefore high time for gentlemen to think of somewhat to be done for that purpose, and I make no doubt but that any Resolution this House shall think fit to come to, will put an effectual stop to it.

Mr. *Thomas Winnington* spoke next:

Sir: I do not pretend to know the forms and the powers of this House so well as the hon. gentleman over the way, who has much more experience in both than I can pretend to; but it is very surprizing to me, that any gentleman should seem to make a doubt of the power which this House has during the recess of Parliament. It is true, we have no power, but as a House, to make any commitment, or to pass any censure; but then it is as true, that the Orders and Resolutions of this House are, or ought to be, as binding during our recess, as during our sitting. The reason, Sir, of this is plain; because we are still the same House, and we have the same authority during our adjournment or prorogation, as when we sit; our privileges are the same, and for the same reason our acts ought to have the same force too. Can any gentleman doubt, that if this House shall come to a Resolution, that if

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any person should, during our recess, presume to print any of our proceedings, that we would not have a right to punish him next time we met together as a House? I dare say, gentlemen will not pretend that we have not; therefore, Sir, I hope you will come to some very strong Resolution upon this occasion. I hope ye will declare, that whoever shall presume to print any part of the Proceedings of this House, during the recess of Parliament, will be equally liable to the censure of this House as if it were during the session.

As to what the honourable gentleman insinuated about the Liberty of the Press being in danger, it is a consideration I am in no manner of pain about. Our coming to a Resolution, that we will not have what we say misrepresented, can never affect the Liberty of the Press. It is what every private gentleman has a right to require, though he were out of Parliament; for I believe no gentleman would wish to see his sentiments misrepresented in print, even though they regarded a private affair; but when such a thing happens in a debate, to fix a gentleman's public character, the consequences are much worse. For my own part, Sir, I am not afraid of speaking my mind in this House; but I should be very sorry to see any thing I say in this House misrepresented in a public news-paper; and I should think I had a very good title to redress, even though I were not a member of this House.

But, Sir, setting aside the case of these gentlemen being misrepresented in what they say in these public papers, I think it is a very great injury done us, as a House of Parliament. I do not see why we ought to be less jealous of our rights and priviledges, than the other House is. I know of no right we have given up, with regard to our power to regulate our own proceedings that the other House enjoys: and I am sure there have been some late instances, wherein they have, I believe, pretty severely punished some printers for presuming to publish their Protests. They did this, Sir, not because their words or meaning were misrepresented, but because they conceived it to be an indignity done to them as a House of Parliament, to print any proceeding of theirs whatsoever, without their consent and authority. That of itself, Sir, is a reason why we ought to put a stop to this scandalous practice of printing our proceedings; because if we should appear less jealous of our rights and privileges, than the other House are of theirs, it may be afterwards told us, that we do not enjoy such rights and privileges, because at such a time, when we had the same reason as the other House had, we did not exercise them. Therefore, if we do not put a speedy stop to this practice, it will be looked upon without doors, that we have no power to do it, for the public will very justly think that if we had such a power, we would exercise it. And then, Sir, what will be the consequence; why, Sir, you will have every word that is spoken here by gentlemen, misrepresented by fellows who thrust themselves into our gallery. You will have the Speeches of this House every day printed, even during your session. And we shall be looked upon as the most contemptible assembly on the face of the earth. I agree with the honourable gentleman over the way, that it may not be quite so right, to punish those printers for what they have done already; for really, Sir, we have been so very remiss in putting a stop to this practice, that by this time they may think they are in the right in what they do. But I can see no manner of difficulty we can be under, to come to some very vigorous Resolution to prevent the like for the future. I would have this Resolution, Sir, extended not only to comprehend the time of our sitting, but of our recess. If the printers of the monthly magazines, and the other news-papers, are not more cautious for the future, I think we shall be wanting to that regard, which we owe ourselves as a House of Parliament, if we do not proceed against them with severity. Therefore, Sir, I hope gentlemen will think of a proper Resolution with regard to this matter of complaint.

Mr. *Pulteney* said:

Sir: I agree entirely with the gentleman who has already spoken, that it is absolutely necessary a stop should be put to the practice which has been so justly complained of: I think no appeals should be made to the public with regard to what is said in this assembly, and to print or publish the Speeches of gentlemen in this House, even though they were not misrepresented, looks very like making them accountable without doors for what they say within. Besides, Sir, we know very well that no man can be so guarded in his expressions, as to wish to see every thing he says in this House in print. I remember the time when this House was so jea-

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lous, so cautious of doing any thing that might look like an appeal to their constituents, that not even the Votes were printed without leave. A gentleman every day rose in his place, and desired the Chair to ask leave of the House, that their Votes for that day should be printed. How this custom came to be dropped I cannot so well account for, but I think it high time for us to prevent any farther encroachment upon our privileges; and I hope gentlemen will enter into a proper Resolution for the purpose.

But, though I am as much as any gentleman can be for putting a stop to this scandalous practice, I should be very tender of doing it in such a manner, as may either affect the Liberty of the Press, or make it seem as if we claim a privilege to which we have no title. An honourable gentleman near me was pleased to mention the powers which the other House had of calling printers to an account for printing their Protests. It is very true, Sir, they have such a power, and they have exercised it very lately; but we have no such power: they may punish a printer for printing any part of the Proceedings of their House, for twenty, thirty, or forty years back; but then, gentlemen are to consider that the House of Peers is a Court of Record, and as such, its rights and privileges never die. Whereas, this House never pretended to be a Court of Record; our privileges expire at the end of every parliament; and the next House of Commons is quite different from the last. As to the question whether we have a right to punish any printer, who shall publish our proceedings, or any part of them, during our recess, which I take to be the only question at present, it may be worthy consideration: for my own part, I am apt to think that we may; because our privileges as a House of Parliament exist during the whole continuance of parliament; and our not sitting never makes any violation of these privileges committed during a recess less liable to censure, the next time we meet as a House. However, Sir, as it has been long the practice to print some account of our proceedings during our recess, I am against punishing any person for what is past, because very possibly they did not know they were doing amiss; and if gentlemen think fit to enter into any Resolution for the time to come, I dare say it will be sufficient to deter all offenders in that way. But that Resolution, Sir, cannot affect any person, who shall print an account of your proceedings when this Parliament shall be dissolved. There is an honourable gentleman* near me, who knows that the History of a whole Parliament was once published in a six-penny pamphlet, and their transactions set in no very favourable light, for the gentlemen who composed it. I never heard, Sir, that any succeeding House of Commons took that amiss, nor that the honourable gentleman, who was generally looked upon as the Author of it, was ever called to account by either House of Parliament. Parliaments, Sir, when they do amiss, will be talked of with the same freedom, as any other set of men whatsoever. This Parliament, I hope, will never deserve it; but, if it did, I should be very sorry, that any Resolutions were entered into in order to prevent its being represented, in the present or the next age, in its proper colours. I am sure the honourable gentleman who sits near me, will agree with me in this; and whatever the other House may do, Sir, I hope we never shall stretch our privilege, so as to cramp the freedom of writing on public affairs.

But this consideration, Sir, can never affect the Resolutions which gentlemen propose to come to now. We have rather been too remiss in not putting a stop to this scandalous practice that has been complained of. I always thought that these pamphlets containing our Debates were circulated by the government's encouragement, and at their expence; for

* Meaning sir Robert Walpole, who in the year 1713, wrote a Pamphlet entitled "A short History of the Last Parliament.

"While the new elections were depending, it was the opinion of Somers and the Whig Lords, that to state to the people, in a strong and perspicuous manner, the proceedings of the late parliament with a view to expose the measures of the Ministry, and to guide the electors in the choice of the new representatives, would be highly advantageous to their party. As no one seemed better calculated for this office than Walpole, he undertook a pamphlet, at their desire, on the Thursday, and published it on the Tuesday following, under the title of A Short History of the last Parliament, with the Motto:

'Venalis Populus, venalis Curia Patrum.'

To this publication is prefixed a Dedication by Pulteney, then his coadjutor, composed in a strain of irony and humour peculiarly his own, and in which, though addressed to an Anonymous Peer, it is easy to perceive that the Earl of Oxford was the object of allusion." Coxe's Memoirs of Sir Robert Walpole.

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till the honourable gentleman who spoke last save one in the debate, mentioned the magazines in the manner he did, I have been still used to look on the publishing them as a ministerial project; for I imagined that it being found unpracticable to make the people buy and read the Gazetteer by itself, it was contrived so as that the writings of the other party, being printed in the same pamphlet, it might be some invitation to the public to look into the Gazetteer, and I dare say, Sir, the great run which the magazines have had has been entirely owing to this stratagem. The good and the bad are printed together, and people are by that means drawn in to read both. But I think it is now high time, to put a stop to the effects they may have, by coming to a Resolution that may at least prevent any thing being published, during the time of our sitting as a House, which may be imposed upon the world as the language and words of gentlemen who perhaps never spoke them.

Sir *Robert Walpole* spoke next:

Sir: You have with great justice punished some persons, for forging the names of gentlemen upon the backs of letters; but the abuse now complained of is, I conceive, a forgery of a worse kind; for it tends to misrepresent the sense of parliament, and impose upon the understanding of the whole nation. It is but a petty damage that can arise from a forged Frank, when compared to the infinite mischiefs that may come from this practice. I have read some debates of this House, Sir, in which I have been made to speak the very reverse of what I meant. I have read others of them wherein all the wit, the learning, and the argument has been thrown into one side, and on the other nothing but what was low, mean, and ridiculous; and yet when it comes to the question, the Division has gone against the side, which upon the face of the Debate had reason and justice to support it. So that, Sir, had I been a stranger to the proceedings and to the nature of the arguments themselves, I must have thought this to have been one of the most contemptible assemblies on the face of the earth. What notion then, Sir, can the public, who have no other means of being informed of the Debates of this House, than what they have from these papers, entertain of the wisdom and abilities of an assembly, who are represented therein to carry almost every point against the strongest and the plainest argument and appearances. However, Sir, as I believe gentlemen are by this time pretty sensible of the necessity of putting a stop to this practice, it will be quite unnecessary for me to argue a point wherein we are all agreed. But I cannot help taking notice of one thing mentioned by the hon. gentleman who spoke last, since I was the person to whom he was pleased to appeal. He mentioned, that the History of a whole Parliament had been printed, and seemed to insinuate from this, that people might make very free with parliaments. Really, Sir, I will be so free as to own that I do know of such a pamphlet being printed; nay, I believe, I know a little of the author, and the publication. But at the same time I know, Sir, that that was one of the worst Houses of Commons that ever this nation saw; that they had a design to introduce the Pretender; that they had approved of a scandalous peace, after the most glorious war that was ever carried on; and had it not been for some very favourable circumstances that fell out, they would have set aside the present happy establishment in his Majesty's person and family. I hope, Sir, no gentleman will find fault with any reflections that could be thrown out against such a House of Commons: I hope likewise, that no gentleman will pretend to draw any parallels betwixt their conduct and ours. But, Sir, besides these considerations, gentlemen are to reflect, that the parliament which was described in that History, had been dissolved before the History itself was published. And not only so, Sir, but there is a noble lord in the other House,* who can, if he pleases, inform gentlemen, that the Author of that History was so apprehensive of the consequence of printing it, that the press was carried to his house, and the copies printed off there.

This, I think, Sir, will be sufficient to shew, that the Author did not think himself quite out of danger, even though the parliament was dissolved. But, I am not at all for carrying things to such a length at present: it may be sufficient, if we come to a Resolution to prevent the publication of any part of our proceedings during the recess, as well as the sitting of the parliament. As to what the hon. gentleman said, with regard to the Magazines being published and distributed by order, and at the expence of the government, I do not know if he was

* Probably Lord Cobham.

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serious or not. If he was serious, he must have a very contemptible opinion of the understanding of those gentlemen, who have the honour to serve his Majesty, if he imagines that they would be so weak as to propagate papers, every page almost of which hath a direct tendency against their own interest. If any gentleman will take the trouble, which I own I very seldom do, to look into one of these Magazines, he will find four pages wrote against the government for one that is in its favour; and generally the subject is of such a nature, as would be severely punished under any other government than our own. If the hon. gentleman was not serious, I think a more proper time might have been chosen for shewing his wit, than while we are considering of the means of putting a stop to a practice, which he himself, and every gentleman who spoke in this debate, allows so nearly to affect the dignity and privileges of this House. For my own part, Sir, I am extremely indifferent, what opinion some gentlemen may form of the writers in favour of the government: but, Sir, I shall never have the worse opinion of them for that: there is nothing more easy than to raise a laugh; it has been the common practice of all Minorities when they were driven out of every other argument. I never shall be afraid, Sir, to do what I think right, and for the service of his Majesty and my country, because I may be laughed at. But really, Sir, I will be so free as to say, that if the want of wit, learning, good manners, and truth, is a proper object of contempt and ridicule, the writers in the Opposition seem to me to have a much better title to both than those for the government. No government, I will venture to say, ever punished so few Libels, and no government ever had provocation to punish so many. I could name a government in this country, Sir, under which those writings, which are now cried up, as founded upon the laws, and in the constitution, would have been punished as libels, even by gentlemen who are now the warmest advocates for the Liberty of the Press, and for suffering the authors of those daily libels that appear in print to pass with impunity. But I ask pardon for what I have said that may appear foreign to the present consideration; I was led to it by what had been thrown out by the gentleman who spoke before.

Then the Speaker having drawn up the question, it was unanimously resolved:

"That it is an high indignity to, and a "notorious breach of the Privilege of, this "House, for any News-Writer, in Letters "or other Papers, (as Minutes, or under "any other denomination) or for any "printer or publisher of any printed News-"Paper of any denomination, to presume "to insert in the said Letters or Papers, "or to give therein any Account of the "Debates, or other Proceedings of this "House, or any Committee thereof, as "well during the Recess, as the sitting of "Parliament; and that this House will "proceed with the utmost severity against "such offenders."

*Debate in the Commons on the Bill for securing the Trade to America.**] May 5. Mr. *Pulteney* rose and spoke as follows:

Sir: The advanced season of the year,

* "As the public mind became more and more exasperated against Spain, and as the pusillanimity of the minister became the constant object of popular invective, the opposition determined to exert one great effort to bring on immediate hostilities, and to preclude the minister from availing himself of the interval which was still left open for negotiation. Pulteney, who conducted this whole business with great address and ability, was the organ of the minority. He moved to bring in a bill under the plausible title of effectually securing and encouraging the trade to America. It was to revive part of two acts, passed in the reign of queen Anne, and in effect, if carried, it would have amounted to a declaration of war, and tended to involve the country with all the commercial nations in Europe. The intention of the act was, to give the property of all prizes taken from the Spaniards, after a declaration of war, to the officers and seamen present in the action; head money, or 5*l.* for every Spaniard made prisoner at sea, was to be granted to the sailors; and the property of all places taken was to be vested, by the King's patent, in the captors.

"During its progress the minister attacked it with great strength of argument. He endeavoured to shew its impropriety at this juncture, and pointed out the injustice of particular parts. In the course of the debates many personal reflections, highly injurious to his character, were cast on the minister, and a bitter altercation arose between him and Pulteney, who was loudly called to order, and obliged to acknowledge, that the warmth of his temper had transported him to use some unguarded expressions, for which he testified his concern. The Bill was negatived by a great majority." Coxe's Memoirs of Sir Robert Walpole.

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together with the apprehensions of a rupture happening betwixt Spain and Great Britain, before our next meeting, makes it necessary for us to enter into such measures as may render the war, should any happen, successful on our part. By the Resolutions which we have already come to this session, we have enabled his Majesty to provide for war; we have declared our readiness to stand by him, in whatever measures he may find necessary for vindicating the honour of his crown, and for procuring reparation to his injured subjects, and satisfaction for the insults that have been put upon the nation. At the same time, Sir, these Resolutions are upon the clearest proofs of an insolent unjustifiable conduct on the part of Spain, and which, without a very ample satisfaction on their part, must occasion a war betwixt the two nations before next session.

In the event of a war, I believe, no gentleman doubts but that it must on our part be a sea war; and if it is a sea war, we ought to consider of the proper measures for annoying the enemy as effectually as possible. In order to do this, we ought to consult the conduct of that wise administration, which carried on the last great war in Europe. These great men, Sir, found by experience, that the prize offices, notwithstanding all the precautions taken to regulate them, were discouragements to the brave seamen who had ventured their lives in their country's service: for when a prize was brought in, the commissioners of the prize offices, their clerks, and the other offices attending them fell upon so many low shifts to defraud the poor sailors, first by deducting so much clear of the prize for the crown, then so much for their own perquisites, that I have many times known a prize bring the captains into debt to the crown. For this reason it was necessary in the 6th of queen Anne, to pass an Act for better settling the trade of the kingdom by cruizers and convoys. By this law, which was made only to continue during the war we were then engaged in, it was enacted, that if any vessel should be taken by any ship of war, or privateer, and condemned as prize, the officers and seamen concerned in taking her should have the sole interest and property in the ship and cargo so taken. By the same Act proper methods were laid down for managing and disposing of the prize, and for dividing the money arising from the sale thereof among those that had, and ought only to have a right to it, without subjecting our brave and honest seamen to the fees and perquisites, and usual purloinings of a public office. And as a farther encouragement for our seamen to weaken and distress the enemy, by seizing and taking their ships, a reward of 5*l.* to be paid out of the public revenue was given to every man that was on board such ships of war or privateer, at the beginning of the engagement; so that every seaman had the comfort to think, that if he was killed in the action, his wife and children, or his executors, would be sure of getting something by his death.

But this affair having been once brought under the consideration of parliament, even this law was not thought sufficient for the encouragement of our seamen, and for preventing the abuses that had been put upon them; and therefore, Sir, another Act was passed the same year, for encouraging our trade to America, by which it was expressly enacted, That all prize offices should be suppressed, and that the officers and seamen of every ship of war should have the sole interest in all ships and goods, being first condemned by the proper court as lawful prize. By the same Act it was likewise enacted, That during the war, the lord admiral, or commissioners of the Admiralty, should, at the request of any British owner of any ship, giving security as usual, except for payment of the tenth to the lord admiral, grant commissions to the commanders of such ships, for seizing ships and goods belonging to his Majesty's enemies in any of the seas or rivers in America: and that the ships and goods so taken, after being adjudged prize, should be divided amongst the owners of, and persons on board the ships that took them, according to the agreement that had been made between the owners and the ships crew. And in order to encourage private men or societies, to be at the expence of attacking and making war on the enemies of their country, it was by the same law enacted, That her Majesty, during the war, might grant commissions or charters to any persons or societies, for taking any ships, goods, harbours, lands or fortifications of her Majesty's enemies in America, and for holding and enjoying the same as their own property and estate for ever.

But all these regulations, Sir, being determinable at the end of the war, they can at present be of no manner of use to the nation. However it is evident, that if we would do any thing effectual against Spain,

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these regulations must be revived; it is evident that if they are not revived, our sailors, upon the commencement of hostilities, will be subjected to all the inconveniences which rendered the passing the two laws, I have now mentioned, necessary. The officers who must be concerned in the prize offices, would, I believe, have as clammy fingers as any of their predecessors, and the brave sailors be as much imposed upon. A Bill for remedying these inconveniences cannot be objected to, but by those who wish this nation no success in any thing undertaken for the common good. I am indeed sorry, that the regulations contained in the two acts I have mentioned, were not made perpetual; which might then easily have been done, because it might have been enacted, that they should at the beginning of every future war be revived by his Majesty's proclamation, and that they should then continue in force, till his Majesty put a stop to them by a new proclamation: this, I think, Sir, was a fault; and as we are now in danger of being involved in a war before next session of parliament, we ought therefore, in this session, to repair that fault or oversight, by enacting, that in case of a war with Spain, these several regulations should be revived. The Bill, Sir, which I intend to move for, is calculated for this and no other purpose; for as it introduces no new law, nor proposes the establishing any regulations, of which we have had no experience; as its only intention is to revive some former temporary regulations, that were found to be of great advantage during the last war; it can occasion no jealousy or suspicion in any British subject, nor can it give uneasiness to any man that wishes well to Great Britain. It may indeed give some uneasiness and concern to the court of Spain, because it will convince them we are resolved not to be put off any longer with tedious negociations or sham treaties: that nothing will now prevail but granting us immediate and full satisfaction: and that if we send out any more squadrons, it will not be to pay them a compliment, but to pour down the vengeance of Great Britain upon them. This will be more effectual for preventing a war than all the treaties which we have been puzzling out for these eighteen or twenty years, and at the same time be an encouragement for our people at home, to contribute with cheerfulness their proportion of the great expences which the present situation of affairs requires.

The other arguments, Sir, which may be advanced to support the Bill, which I intend to move for, will perhaps come more properly in another time. At present I humbly move, that the 6th and 8th sections of an Act made in the 6th year of the reign of queen Anne, entitled, 'An 'Act for the better securing the trade of 'this kingdom by cruizers and convoys;' and also the second section of an Act made the same year, entitled, 'An Act for the 'encouragement of the trade to America,' may be read.

The question being put, the same were read accordingly.

Sir *Robert Walpole* spoke next:

Sir: I believe gentlemen will be pretty much disappointed, when I assure them that I do not rise up to oppose this Bill, hinted at by the hon. gentleman who spoke last. I am for my own part persuaded, when it comes before the House, that it will appear a very improper Bill at this juncture, and I will undertake to prove it so. I cannot however avoid taking notice how different the time and the manner in which the two Bills mentioned were brought in, is from the time and manner in which the hon. gentleman proposes to bring in his Bill.

As to the time, Sir, the two former Bills were passed, after the nation had been five or six years in actual war; therefore neither we nor our allies could suffer by any precipitate declaration of such a measure as this is. By these Bills, Sir, we did not make one nation in Europe our enemy; we gave no jealousy to our allies; we put the crown under no difficulties: but I shall submit it to gentlemen's consideration, how far it is possible to avoid these inconveniences, should such a Bill pass at present. It would perhaps, Sir, be looked upon as anticipating the debate, should I enter upon any discussion of our present situation at home and abroad. That is a consideration which will be much more proper when the Bill is brought before us. Thus much only I will venture to say, that I shall never be either afraid or ashamed of opposing any Bill, which may tend to plunge this nation into a ruinous and perhaps doubtful war.

Having said thus much, Sir, with regard to the timing of this Bill, give me leave just to touch upon the manner in which it was brought in. I am old enough, Sir, to remember, that when the two Bills passed in the 6th year of queen Anne for the pur-

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poses mentioned by the hon. gentleman, were brought in, the crown had previously given up its title to the share which it claimed in the prizes. We had likewise some regard to the rights of the lord high admiral. Gentlemen will consider if we can properly bring in any Bill of this nature, without some previous steps of that kind: however, as I am entirely ignorant of the shape in which the Bill may appear, I shall not oppose its being brought in.

Sir *William Windham* spoke next:

Sir: The hon. gentleman who spoke last, did not indeed oppose the motion for bringing in this Bill, but he took care to let gentlemen know that he thought it a very wrong thing to bring it in at all. But I hope gentlemen will not for all that be so far prepossessed against it as to think it a bad Bill, because one gentleman does not think it fit for his purpose. As to what the hon. gentleman said about the time in which this Bill is moved for; instead of being sorry with him that it is too precipitate, I am sorry we are so late in moving it. We are not indeed in actual war at present with the Spaniards, but I am very sure they are at war with us, and have been so these twenty years; therefore it is now high time for us to shew them that we dare make war upon them.

The hon. gentleman's other objection was to the manner in which this Bill is to be brought in. I believe, Sir, it is as regularly moved for as any other Bill of the same or a like nature ever was. We have indeed had no previous notice from the crown of a cession of its right in the prizes; but I apprehend there is no occasion for it, as will appear when the Bill is brought in. As to what the honourable gentleman said about the crown's previously giving up its share in the prizes, if it is fact, it discovered great wisdom and honesty in the then ministry, in advising the crown to such a cession; but I apprehend the cession which the hon. gentleman means, was no other than a paragraph in a speech from the throne, three or four years before the acts from which you have heard the paragraphs read were passed, and which I believe had no weight with the House of Commons which passed these acts. The hon. gentleman mentioned the rights of the lord high admiral. If the lord high admiral has any claim against this Bill, I dare say the gentleman, in whom that great office is now vested, will take care that no future lord high admiral shall suffer for want of an opposition to any invasions upon his rights: so I hope gentlemen will not be amused by any assertions or insinuations, as if this Bill were disrespectful to the crown, or prejudicial to any of the great officers; it can be of prejudice to none but to those who are so to the nation.

Mr. Pulteney then made a motion, seconded by Mr. Sandys, "That leave be given to bring in a Bill for the more effectual securing and encouraging the trade of his Majesty's subjects to America;" which was ordered accordingly.

May 8. Mr. Pulteney presented the said Bill, which was read a first time.

May 12. About 12 o'clock Mr. Pulteney moved for the order of the day, and was seconded by Mr. Sandys: but the Bill to empower the Lord Mayor and Aldermen of London to set the price upon all Coals commonly called sea-coals, imported into the port of London from Newcastle and the ports adjacent thereunto, for one year, having taken up a great deal of the House's time that session, Mr. Winnington, who was Chairman of the Committee to which it was committed, opposed the same; upon which

The *Speaker* said:

Gentlemen: A motion so unexpected as the present makes it difficult for me to determine in what manner to behave: it has never been the custom in this House to call for the order of the day till two o'clock at soonest, because by that hour gentlemen are all present in the House, and thereby have the fairer opportunity of knowing the sense of the House upon the business of the day: but as this motion has been made by an hon. gentleman, and regularly seconded by another, it is my duty, if the motion is not retracted, to take the sense of the House upon it. And gentlemen I hope will not be offended, if previous thereto I acquaint them with my thoughts of the matter. It is always my custom, gentlemen, before I take the Chair, to digest in my own mind the manner in which the affairs of the day may be best carried on, both for the ease of gentlemen, and the dispatch of business. Gentlemen know very well that this day they are to have a Conference with the Lords about some amendments to the Bill for the more effectual securing the payment of Rents to Landlords, and preventing Frauds in Tenants. As I believe the Conference will

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not continue very long, perhaps not half an hour, and very little of our time will be spent in the reporting it, I thought the most proper way of proceeding on the business of the day, was first to consider the amendments of the Coal-Bill, then go to the Conference, and when gentlemen are returned from the Conference, which may be about half an hour after two o'clock, to call in the order of the day, for which the present motion is made. This, gentlemen, is the scheme which I had digested with myself, and I wish it may be agreeable to the House.

Mr. *Pulteney*:

Sir: When I made the motion, it was not with a design to put the House to any inconveniences, or to interrupt the other business of the day. But since the session of the parliament is now so far advanced, that, if I am rightly informed, it will continue but three days longer; and since this Bill is of the greatest consequence to the trade and welfare of the nation; and if we do not go through it to-day in the Committee, it is in danger of being dropped intirely, I thought it necessary to press the consideration of it. The Coal Bill I know, though of less importance, will, when we enter upon it, engross much of our time, of which part may be saved, by putting off the report for a day, because gentlemen will have leisure to concert the amendments among themselves, and the House will perhaps escape the trouble of a debate. But the Bill in my hands is of a different nature: it is a Bill in which we are all equally concerned, a Bill for which the public is anxious, and which claims all the attention we can give: gentlemen can never be more usefully employed than in seriously examining how it may be amended or altered, so as best to answer the ends for which it is calculated. For these reasons, Sir, I shall beg leave to insist upon my motion.

Mr. *Winnington*:

Sir: I do not believe that there is a gentleman in this House who remembers a single instance of the order of the day being called for before two o'clock. It has always been the method of this House to receive reports before any other business was engaged in; and I have now, Sir, in my hand the Report of a committee upon the amendments to a Bill, on which this House has bestowed more time and consideration than upon any Bill that has been before it this session. I shall not dispute the importance of the Bill which the hon. gentleman has in his hand; but surely, Sir, gentlemen have no reason to complain of the reception it hath yet met with from the House. It has been twice read, and ordered to be committed in as short a time as any bill could be, at the end of a session, and amidst such a multiplicity of business; it is therefore, Sir, I think, but reasonable, that the report I have in my hand be now received, and that the Bill for which the hon. gentleman interests himself, take its turn in a regular way. Upon this,

The Speaker intimating as if it would be agreeable to him if the motion were dropt,

Mr. *Pulteney* said:

Sir: Though I might very well be excused from retracting the motion I have made, yet your judgment, Sir, shall always have great influence with me. If therefore gentlemen will be pleased to agree to your proposal, I am content that the report which the hon. gentleman has to make be now received.

No reply being made to this, Mr. Winnington read the Report from the committee on the Coal Bill, and the House went through the first Amendment; which occasioning some debate, employed them till two o'clock, the hour appointed for the conference. In the mean time, sir Robert Walpole and many other members coming into the House, Mr. Winnington moved, That the farther consideration of the Amendments should be resumed when the conference was over. Upon this

Mr. *Pulteney* spoke as follows:

Sir: If there is either faith, honour, or common justice amongst gentlemen, this motion ought not to be agreed to. I appeal, Sir, to every gentleman who was in the House, when I moved for the order of the day, if I did not retract my motion, from a deference to your judgment, which influenced me to agree to what was contrary to my own. You were pleased, Sir, to inform us how you had digested the business of the day in your own mind; and in consequence of your proposal, we were, immediately after the conference, to enter upon the order of the day. This, Sir, I agreed to, and not one gentleman expressed his dissent. With what face then can gentlemen make a motion so contrary to what they agreed to scarce an hour ago! This, Sir, is, I must own, a very ex-

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traordinary manner of proceeding amongst gentlemen; and for that reason, Sir, were it for no other, I hope this House will never agree to so pernicious a precedent.

Mr. *Winnington* spoke next:

Sir: I do not know how just a construction the hon. gentleman who spoke last has put upon your words, but I am sure I understood them in a manner quite different from what he seems to have done. It never entered, Sir, into my head, to think that we were to leave the Coal Bill abruptly, and not proceed again in it, when the House comes from the conference. I could wish indeed that gentlemen had met with no difficulties in the Amendments, that we might have gone into a committee upon the hon. gentleman's motion, when we returned from the conference. But, Sir, as this is a Bill of very great consequence to the cities of London and Westminster, I hope gentlemen will be pleased to consider, that if they should postpone it now, it perhaps may not be ready for the royal assent this session; and that before the next, extortion may proceed to greater enormities, and the grievance become too heavy to be borne. A man, Sir, must always be the best judge of his own intentions, and I declare I never had intention of leaving this Bill unfinished, in order to proceed upon another, which, however fond some gentlemen are of it, may perhaps, when carefully examined, not be found of such importance as they imagine.

Several gentlemen then declared that they apprehended the House was to proceed upon the Coal Bill till the time appointed for the conference, and that when the conference was over, they were immediately to resolve into a committee upon the Bill moved to be considered. At the same time they called loudly upon the Chair to inform the House, if that was not his meaning? If he did not understand that it was upon that assurance that the motion made by Mr. Pulteney was retracted?

Mr. Speaker seeming unwilling to give any positive decision,

Sir *Robert Walpole* rose, and said:

Sir: I own myself a little unfit to speak in this debate, because I was not present when the hon. gentleman made the motion that gave rise to it. But, I think, Sir, neither the hon. gentleman himself who made the motion, nor any of his friends who have since given the House their sense of the matter, have affirmed, that the hon. gentleman who opposed the motion dropt one word, from which it could be inferred that he should be willing that the House should leave the Bill upon which we now are, without completing it, in order to examine another Bill, only because it is so much a favourite of the hon. gentleman who made the motion, that rather than omit any thing that could tend to promote it, he chose to act in a way somewhat dark, artful, and suspicious, by moving for the order of the day at a very unusual time, when by the well-known form of the House, the preference was to be given to other business.—This, among gentlemen, is an uncommon way of acting, and like gaining a stolen march upon a dreaded adversary.—If, Sir, one gentleman has a fondness for a Bill which has, perhaps, cost him some trouble in preparing and bringing into the House, sure it is very reasonable to indulge another gentleman in the same partiality for one that has cost the House so much time and trouble in examining, canvassing, and amending, as the Bill now under our consideration has done.—For this reason, Sir, I am for resuming the consideration of this Bill, and when we have gone through it, I shall, with all my heart, agree to our examining the other Bill, if this House shall think proper. In the mean time, Sir, I cannot see with what reason the hon. gentleman who made the motion should accuse gentlemen of breach of faith, honour, and common justice, for not understanding your words in the very same manner with himself: nor, indeed, do I think a matter of this importance ought to have taken up so much of our time: nobody opposes our going into a committee upon this Bill; only let us do it at a convenient time, without postponing other business that ought to have the preference. Therefore, Sir, I am entirely of opinion, that we ought to resume the further consideration of the Bill now before us.

Mr. *Pulteney*:

Sir: From what was last spoken, I can easily foresee the fate of the Bill I have now in my hand: I can discern through all these thin disguises, that some gentlemen have recourse to a mean expedient to hinder us from considering a Bill against which no shew of reason or argument can be advanced. I hate, Sir, all expedients,

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and I disdain all ministers who use them. Some ministers, Sir, there are, who live upon expedients, and who cannot do their dirty work without them. Expedients, Sir, in the hands of weak ministers, are the instruments of defeating the most beneficial and of promoting the most destructive measures. Some ministers know, Sir, that the Bill for which I now stand up, is a Bill that leaves no room for cobweb negociations, inconsistent treaties, or mock expeditions for the future; and that, Sir, is the reason why this method is made use of to undermine it. If I had been capable of acting as the hon. gentleman who spoke last has suggested, I might have had many opportunities of taking the advantage of a thin House, either to bring in or throw out Bills of the greatest consequence. I appeal to every gentleman who hears me, if it has not been many times in my power to have dropt in, even upon a Land-tax Bill, with half a dozen of my friends, and to have thrown it out. But, Sir, I have always disdained these arts. The Bill, Sir, for which I have laboured, will I hope, recommend itself to every gentleman who has a just sense of his country's honour; and if it is decreed that it must fall to the ground, I shall at least have the satisfaction of doing my duty honestly as an Englishman and a member of this House. One good consequence I am persuaded will attend it: my countrymen will learn, by the fate of it, what they are to expect; they will learn, Sir, whether we are tamely to submit to insolence and oppressions, or to seize the means of redressing them.

This Speech put the House into some confusion, and being personally levelled,

Sir *Robert Walpole* thought proper to make the following answer:

Sir: Though the manner in which the hon. gentleman who spoke last delivered himself, may well excuse me from saying any thing in answer to a speech so very unparliamentary, and so very inconsistent with all the rules of common decency; yet I think I ought to shew so much regard to the House as to declare, that I abhor dirty expedients as much as the hon. gentleman would be thought to do. As for his common place railing against ministers, it gives me very little trouble, so long as I am conscious I do not deserve to have it applied to me. Were I ambitious of shewing my wit, I might have a fair opportunity of doing it by railing against mock-patriots as much as the hon. gentleman has been pleased to do against corrupt ministers, and both perhaps might be equally instructive to the House. But, railing of all kinds, Sir, has always been looked upon as the last expedient of disappointed ambition, and a poor expedient it is. Were I one who for many years had unsuccessfully endeavoured, by all the arts that malice and falsehood could suggest, to work myself into those posts and dignities that I outwardly affected to despise; I know not how far, Sir, my temper might be soured, as to make use of such an expedient; but, really, Sir, if I did, I should make but a very poor figure in the world. Why the hon. gentleman should suppose there was any premeditated design in the ministry to throw out his favourite Bill, I cannot comprehend. I believe every gentleman here will in his own mind acquit the ministry of any such design, when he reflects upon the circumstance that gave rise to this debate. For my part, Sir, I doubt not but I shall be able, without having recourse to any other expedient than reason and argument, to shew that the Bill for which the hon. gentleman so earnestly pleads is a very bad Bill; that it is a Bill with a specious title, but of a destructive tendency. But, Sir, as it depends principally upon you to clear up the facts that gave rise to this debate, I shall take the liberty to beg that you would inform the House how the matter stands, and for my own part I shall very cheerfully acquiesce in your decision.

When sir Robert sat down, the House almost unanimously cried out, The Chair! the Chair! Upon which,

Mr. *Speaker* spoke to the following effect:

Gentlemen: I am extremely sorry that any thing which fell from me should have given occasion to a debate of this kind, and it is a very disagreeable business to be obliged to declare my opinion in the present case: however, Gentlemen, as you call upon me so loudly, and so unanimously to do it, I will, without regard to any persons, or to any distinctions, inform the House of my real sentiments. When I made this controverted proposal, I thought there was but very little to do in the Coal Bill, and that it might have been easily over, before the hour appointed for the conference; and indeed I must, in justice to the hon. gentleman who made the first motion, declare, that as I understood it, he

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retracted his motion upon the supposition that the House complied with the terms which I proposed. These terms were, that we should, after the conference was over, immediately go into a Committee upon the hon. gentleman's Bill. As no objection was made to what I suggested, either by the hon. gentleman who made the last motion, or any of his friends, I did, indeed, take it for granted, that the terms of my proposal were actually agreed to. However, I shall be very proud, if what I am now going to suggest can contribute to make up this breach. The conference will probably be over in half an hour, during which time all proceedings on business in this House are at a stand, and gentlemen may thereby have an opportunity of preparing matters so as to render it easy for the House to dispatch the Coal Bill in a very short time. I shall therefore take the liberty to propose, that after gentlemen are returned from the conference, the House shall proceed for half an hour upon the Coal Bill, and then resolve into a committee on the other. If the Coal Bill cannot be dispatched in half an hour, I hope gentlemen will be pleased to agree with our meeting to-morrow; and if they will come early, I believe we shall have time enough for going through the Coal Bill, and receiving the report of the other Bill. Upon this,

Mr. *Pulteney* rose and said:

Sir: I own the warmth of my temper transported me, when I spoke last, into some expressions, for which I am now very sorry. But what man, treated as I was, could have avoided some excess. As you, Sir, have been so candid as to inform the House of the truth of the matter, and so kind as to propose the method of our proceeding, I entirely agree with your proposal. I hope it is fully understood by gentlemen, and that there will be no mistakes about it when the proper time comes.

There being no objection made to this proposal, the names of the gentlemen appointed to manage the conference were called over, and after they had been gone about half an hour, they returned; upon which every thing was carried on according to what Mr. Speaker had said. After the first reading of the Bill,

Sir *Robert Walpole* spoke as follows:

Sir: I do not rise up now to give my negative to the Bill before us; I only intend at present to throw out a few inconveniences that to me appear to lie against it, which, upon our farther progress, may be worthy consideration. At the same time I own myself to be under great difficulties. On the one hand, should I vote for measures, that must either inevitably plunge us into an expensive and an uncertain war, or make the conclusion of a safe and honourable peace more difficult, I shall act contrary to my own private opinion, contrary to the duty I owe to his Majesty from the station I have the honour to possess in his councils, and contrary to what I owe my country from the seat I have in this House. On the other hand, I am too sensible of the many violences committed, and seizures made by the Spaniards, to oppose any thing that carries a probability of contributing to the satisfaction which is due to our injured merchants, to the honour of the nation, and the dignity of the crown of Britain. I shall therefore take the liberty to state some difficulties that in my apprehension lie against passing the Bill now before us. And that I may do it the more distinctly, I shall consider this Bill as consisting of three different parts, and give the House my thoughts, such as they are, with regard to each of them.

The Bill, Sir, has, I must acknowledge, a very popular title; it is called, 'A Bill for the more effectual securing the Trade of his Majesty's Subjects in America;' but to me it seems to have a direct tendency to destroy it. By the first clause, Sir, the property of all captures made when we come to an open rupture with Spain, is to be vested in the persons of the captors. The second clause gives 5*l.* to every sailor in his Majesty's navy, who shall be on board a ship of ours, that shall take an enemy's ship on the open seas: and by a third clause his Majesty is to be impowered to grant his letters patent, for incorporating societies for making conquests of any city, town, fort, lands, settlements, factories, &c. of the Spanish dominions, and for assuring the property of any place taken to the societies that may be concerned therein.

By the first clause I have mentioned, if all the Spanish Plate-ships should be taken by our fleet on their return from, or in the harbours of America, that immense treasure becomes the property of our officers and seamen. I believe, gentlemen need not to be told that the Spaniards have not the property of one fifth part of the riches

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which are yearly brought home in their Plate-ships; the far greatest part of the cargo belongs to other nations, who are in friendship and alliance with us. These riches, Sir, were put on board the Spanish ships, in full faith and confidence of our friendship. The owners of them are no ways engaged in our quarrel, nor have we ever received from them any provocation. Now, Sir, I shall be glad to know how it would sound, if upon a rupture with Spain, the fleet of Britain should seize upon the wealth of her friends and allies, who had shipped it on board the Spanish ships in the full faith and assurance of friendship; and what must be the consequence of such seizure, should it, by our passing this Bill, be put out of our power to make them any restitution.

Sir, when I have said all this, I am far from thinking that we are not a sufficient match for the Spaniards, or if the present differences should come to an open rupture, that we should not be able to force them soon to do us justice. But give me leave Sir, to say, that I think we are not a match for the Spaniards and French too. Every body knows that the share which the French have in the Spanish Plate ships is very considerable, and this being so, there is no room to doubt but as soon as it is known at the court of France, that we have passed a Bill to give to our officers and seamen, that treasure which she thought so well secured by her friendship with us, she will immediately determine herself with regard to the part she is to take in this quarrel; but it is presumed, that the determination will not be in our favour. The manner in which she will naturally reason on our passing this Bill, will be thus: "I had resolved to stand neuter in this quarrel betwixt Spain and Britain, as their differences did not affect my interest. But now the case is altered. I have a very great property at stake, and I must take effectual care to secure it. This I can only do, either by infesting the coast of Britain, and thereby forcing her to accept of what terms I shall please to impose, or by sending out a squadron of men of war to protect the Spanish Plate ships." In this manner, Sir, we may be assured, the court of France will reason; in one or both of these ways will she naturally act, if we should pass the present Bill into a law: and in that case I should not at all be surprized to see the next Spanish Plate fleet come home under a French convoy. This, Sir, I think, is a prudential consideration, why we ought not, but after maturely weighing the consequences, to agree to the passing this Bill. But there are other reasons of a different and a more domestic nature, that ought to make us still more cautious in every step we take in this affair. As the law already stands, Sir, his Majesty may dispose of captures made in the time of war in what manner he thinks fit; and there are many instances of this House addressing the prince on the throne to grant them to the officers and seamen concerned in the captures. Such grants, Sir, have never been refused, when so applied for, and captures were scarce ever otherwise disposed of. An hon. gentleman in this House, I believe, if he pleases, can inform you that while he commanded a squadron of our ships during the last war with Spain, a letter came from a duke, the then secretary of state, by which letter his Majesty gave up all his right to the several Spanish ships taken as prizes in the Mediterranean, in favour of the officers and sailors who took them. And, Sir, we have not the least reason to suspect that our seamen would meet with less encouragement under his present Majesty, than they have done under his royal predecessors. I think therefore it would be very unadvisable to engage in such measures, as would, perhaps, put it out of his Majesty's power to obtain reparation of our past injuries, or security for our future commerce. Nor can I see, Sir, the least reason why you should put that in your statute book, which you before had upon your journals.

I shall proceed, Sir, to the second consideration, and I hope I may, without offence, be allowed to become an advocate for our injured merchants. I repeat it, Sir, — an advocate for the merchants! of whose interest, however I have been misrepresented, I am as tender as the warmest friend they have. My concern for them, Sir, is lest they should suffer more from us, if we pass this Bill, than they have suffered from the Spanish guarda costas. I dare say the hon. gentleman who brought in the Bill, did not consider the loss our merchants may sustain by the share they have in the assurance made on the cargoes of these Plate ships. There is scarce any nation in Europe whose merchants have not effects on board the Plate ships, and which they do not take care to insure either with our merchants or the Dutch. Hence it is, Sir, that they become accountable for the damages these ships

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shall receive by storms, by enemies, or by other accidents.

I will suppose, Sir, all commerce to be already broken off with the French, by the measures I have demonstrated they must naturally take on our passing this Bill: but will our insurers be thereby free from indemnifying their losses on our taking the Spanish Plate ships? I believe not, Sir; but if they were, I may venture to say, that the merchants of other neighbouring nations, will have a claim upon our insurers for greater sums, than their losses by the Spanish depredations can amount to. Besides, Sir, can we suppose the States General will be well pleased to find such large demands made on their insurers? The Dutch have certainly suffered much by the Spaniards, though perhaps they have not had so many ships seized as we have; they can claim the same right to redress as we do, and if they please may pursue the same measures for obtaining it; but, we find, they wait the result of our councils. If the measures we shall take carry a probability of procuring satisfaction for the past, and security for the future, we need not doubt of their concurrence and assistance; but if we pursue measures which may render the remedy worse than the disease, we must never imagine that any nation will determine themselves against their own interest.

I shall next proceed to another argument, drawn, Sir, from a consideration of the treatment which our merchants now residing in Spain, and other places under that crown, may receive, and of what will be the fate of all our ships which shall be found in any of its ports, when it comes to be known that this parliament has passed the Bill now before us. What may be the value of our merchants or ships in their ports, I do not pretend to know; but I believe I may safely say, that the trading part of this nation would have reason to regret our taking a step, that would be no sooner known at the court of Spain (who would no doubt have more early information of it than the merchants themselves) than every shilling of their effects would be sequestered, and every ship they have in those parts seized on. I know, Sir, it may and probably will be objected by some gentlemen, that as this affair has been long in agitation, the merchants by this time are prepared for the worst, and have found means to secure their effects so well in those parts, as to render it impossible for the government to discover them. But, Sir, though this might be done in a free country like ours, where the laws admit of no racks or wheels to extort a discovery of that kind, yet who can tell what methods may be used in a country where liberty is not so well understood, and whose prince is absolute? There is no gentleman more zealous for the honour of this nation than I am, or more ready to concur with every measure for asserting it; but, Sir, we are to reflect, that other nations may be as tender in that point as we are. Those who have occasion to be much about the persons of princes know very well how jealous they are on this head, and apt to take fire at every thing that seems to affect their honour; should we, at the very time when his Majesty has renewed his pressing instances with the court of Spain, pass this Bill into a law, before we can have any answer from that court, there is great reason to believe, that his Catholic Majesty will look upon it as the highest indignity that can be offered him, and may proceed to such extremities as must render it impossible for us to obtain satisfaction for our injured merchants any otherwise than by war, the event of which is always doubtful. We have already strengthened the hands of his Majesty by promising to stand by him in every measure he shall take for obtaining a full satisfaction for the losses of our merchants. His Majesty, in consequence of that address, has given orders to his ministers at the court of Madrid, to make the strongest instances for obtaining that satisfaction; and there are very good grounds to believe, that when his Catholic Majesty sees with how much zeal and unanimity we have already acted in this affair, it will be the strongest motive to him for granting it. On the contrary, should we pass the present Bill into a law, we must make one half of Europe either open enemies or but very cold friends. What will be the consequence of this, but playing the court of Spain's game? This is the thing in the world she most wants; and though she were otherwise disposed to give us the desired satisfaction, she will at least insist upon her right of searching our ships in those seas; she will insist upon a fuller or clearer proof of the justice of our merchants complaints than she can have from this place: after they are proved sufficiently to satisfy all the rest of the world, she will insist upon our ships being lawful prizes, by having on board contraband goods. This, Sir, no doubt will be her lan-

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guage, when she finds that she is to be supported by other powers. And then what prospect can we have of being redressed? But now, Sir, she stands by herself, she finds that we are in earnest, that we are no longer to be trifled with, and that we are prepared to use other arguments besides remonstrances. In this situation, Sir, she will be glad to treat on reasonable terms; but in the other she will pretend to dictate.

I know very well, Sir, that Bills have passed with clauses of this nature. One, I think, passed in the 6th of queen Anne, and I believe that I myself voted for it. But, Sir, that Bill was brought in after the war was begun, when it was impossible that any of our friends or allies should suffer by its passing, and when no treaty of accommodation was on foot: but, Sir, the very reverse happens to be the case at present.

By this Bill, Sir, all prizes taken from the Spaniards after the declaration of war, are to be given to the officers and seamen present in the action. Now, Sir, I think it will be proper to observe, that of late most wars have been declared from the mouths of cannons, before any formal declaration; and, Sir, it is very probable, that if we are obliged to come to an open rupture with Spain, the first declaration of war made on our parts will be from the mouth of our cannon. In this event, Sir, I should be glad to know of any gentleman, what time our allies can have to withdraw their effects? or where the justice will be of our seizing them, and putting it out of our own power when seized, to make any restitution? while at the same time they depend on the friendship and alliance subsisting between them and us. By the Bill in its present shape, Sir, only fourteen days are allowed, and if our ships should after that time meet with a Spanish ship it is prize. For this reason, Sir, I think, in common justice, we ought at least to give our allies fair warning. This Bill, therefore should not take effect till a reasonable time after an open rupture betwixt us and Spain, that our allies may know what to expect, in case any of their goods are found on Spanish bottoms. For, Sir, there is no doubt, when we enter into an actual war with Spain, the French and all other nations will be very cautious in what manner they trust their effects on board the plate ships. Besides, Sir, there is another very material difference betwixt this juncture, and those wherein Bills have passed with clauses of the like nature with that under our consideration. When the Bill I have last mentioned was brought in, both the Dutch and we were in actual war with France, and with the present king of Spain, in whose hands the Spanish America then was: so that we made no more enemies than before, nor had we any fewer friends. The wealth of the Spanish West-Indies was at that time the sinews of the French power: we knew, if we could once cut off that communication, we should disable him from carrying on the war. It was therefore a prudent and necessary step in us to animate our seamen by all the encouragement we could possibly give them. But I believe, Sir, no gentleman will affirm that juncture and the present will be parallel.

As to the clause for granting head money to our sailors, I look upon it in a very different light from the former. I think it is extremely proper and reasonable, that our sailors, in case of a war, should have such an encouragement, and shall be very glad to concur with any motion for that purpose. It cannot be expected, Sir, that men should encounter danger without a prospect of reward, or so boldly face death for common wages. I think frugality in this case is very improper, and am in this point intirely of opinion with the honourable gentleman who brought in the Bill.

I shall proceed therefore to the third and last head I propose to speak to; namely, the vesting the property of the places which shall be taken from the Spaniards, in the persons of those who shall take them. To this clause, Sir, I cannot assent, because I am equally against whatever may obstruct the conclusion of a safe and an honourable peace, as against what may plunge us into an unequal war. I believe, Sir, there are very few instances of any peace being concluded of late between the powers of Europe, by which all conquests of the territories of either party made during the time of the war, were not mutually given up. Should we enact such a clause in favour of private persons, and if in consequence of that clause any conquests were made, we must be reduced, when a treaty is set on foot, to the dilemma either of throwing in an insuperable obstacle to the conclusion of a peace, or of committing an injustice to private persons by depriving them of their property. It is true,—it is possible that these persons may be satisfied with an equivalent, and it is as true that possibly they may not: but suppose they

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should be satisfied, it is to be presumed they will make the best bargain for themselves they can, and insist upon terms which may greatly disconcert the measures that the treating powers might otherwise concur in. This, I say, must very much perplex, if not utterly break off, any negociation. It is not to be expected that those proprietors are to be indemnified by the king of Spain; that prince's ministers will insist upon a restitution, without having any regard to the right of conquest, which our subjects may plead, or the difficulties our crown will have to recover these conquests to herself before she can restore them. So that, Sir, should we enact this clause, we do a thing that must at least very much embarrass all future negociations for peace, or put the crown to a very great expence. The difficulties, Sir, that lie against this clause, are greater with regard to Spain, than any other country in Europe: since it is provided by several solemn treaties, that no part of the Spanish dominions, as then possessed by that crown, shall be alienated or dismembered from her monarchy; and we know what uneasiness she has given us in our possession of what we paid so dearly for, and which has been so often confirmed to us. For these reasons, Sir, I think that our passing this clause would be putting his Majesty to a future inconvenience, and in some measure bind up his hands from making that safe and honourable peace which we all so much desire. The crown of Britain has an indisputable right to make peace and war, and in my opinion it is a just right, and advantageous to the subject. But, Sir, we ought to throw no obstacles nor difficulties in the way, that may distress the crown in the execution of this right, or prevent the conclusion of a peace consistent with the safety of the subject and the honour of his Majesty.

I have now, Sir, gone through a few of the many objections to this Bill: I have stated my difficulties, and shall be glad to have them removed. I know, Sir, under what disadvantages I speak, and how ready some are, in the present case, to interpret the least caution, however reasonable, as coldness and indifference.

I know how unpopular every argument is on the side of peace; and I likewise know, that every thing that comes from a minister that has a tendency that way, is looked upon as proceeding from his fear of a war. I have been long used to bear these reflections; but I have always disregarded a popularity that was not acquired by a hearty zeal for the public interest; and I have been long enough in this House to see that the most steady opposers of popularity, founded upon any other views, have lived to receive the thanks of their country for that opposition. The experience, Sir, of this, has often encouraged me to oppose popular measures when they were wrong, and sometimes to promote unpopular ones, if they were right. The experience of this, Sir, has made me lay before you my objections with regard to the passing the present Bill. But at the same time, Sir, I am as much against throwing cold water upon the zeal which this House has shewn with regard to the insults offered to our country, as any gentleman here. Nay, Sir, give me leave to say, that my own interest is concerned, and had I no other, is a strong motive for our doing every thing that can procure us just satisfaction. I know, Sir, how far ministers are accountable for the counsels they give their sovereigns, and how far this House in former times looked upon them as answerable for the conduct of the sovereign, and I think, Sir, they should be answerable.—It is but a mean excuse for a minister, when any wrong step is made in government, that he is not accountable for the events of measures that never were advised by him, and in which he was over-ruled by his superiors. I have always disdained these mean subterfuges; and with what face can I again appear in this House, if full and ample satisfaction is not made us, or at least, if we do not do our utmost to obtain it; either by fair and peaceable means, or by exerting all our strength in case a war becomes necessary. If my country should call me to an account, I would very willingly take upon me the blame of every step that has been made by the government, since I had the honour to enter into the administration. As to the common notion of a minister's being afraid to enter into a war, I do not understand upon what it can be grounded. For my part, I never could see any cause, either from reason or my own experience, to imagine that a minister is not as safe in time of war, as in time of peace. Nay, Sir, if we are to judge by reason alone, it is the interest of a minister, conscious of any mismanagement, that there should be a war; because by a war the eyes of the public are diverted from examining into his conduct; nor is he accountable for the

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bad success of a war, as he is for that of an administration.

I remember, Sir, when I was a young man, nothing gave me a greater pleasure than voting for a war with France; I thought that it sounded well, that it was heroic, and for the glory of my country. But, Sir, how fatal in some respects have the consequences of that war, just and necessary as it was, been to Britain? I little dreamt that at this day we should by means of that war be groaning under such a load of debts. I little dreamt, Sir, that the noble resolution the parliament then made was to cost us so dear, or that we were to purchase our glory at an expence, which after so many years, would render it extremely inconvenient for us to enter into any, even the most necessary, war. For which reason, Sir, though I am as absolutely bent upon a war as any gentleman, if satisfaction cannot be obtained by other means; yet I think it would be very imprudent for this House to take any steps that may prevent the conclusion of a safe and honourable peace. This Bill, in the views I now have of it, must be attended with that effect: and though, as I said before, I shall not give it my absolute negative, yet gentlemen must excuse me, if it does not meet with my concurrence till I hear the reasons answered which I have advanced against it.

When the Bill was committed, the clauses received a few alterations, particularly the 14 days, the time limited for the commitment of the Bill from the declaration of war, was prolonged for two months after such a declaration, if any should happen. This being the only material objection in the committee to the Bill, the question was put upon the Bill, as it stood amended, and was carried in the affirmative, with only one negative, which was that of sir Robert Walpole. The Bill being engrossed, it was read for a third time, on the 15th of May. The question being put, a long debate arose: in which the principal speakers, and their arguments, were as follow:

Mr. *Henry Fox* said:

Sir; the Bill now under our consideration, is in my opinion of the greatest importance; greater perhaps than gentlemen commonly apprehend. The question with me, is not whether such or such clauses of the Bill are proper for our assent, but whether this is a proper time for passing such a Bill. Were we in an actual war with Spain, I do not deny but that there are several clauses in this Bill, which might very much conduce towards rendering it successful on our parts. But, Sir, as his Majesty has not thought fit to declare that matters are come to such an extremity, as to render it impossible to make up matters without our entering into a war, I should think it extremely imprudent in us, to usurp that part of the royal prerogative, which in effect we do, should we pass this Bill into a law. An hon. gentleman near me the other day, I think, proved to demonstration, that the passing of this Bill in any shape, at this juncture, must greatly alarm, not only the Spaniards and the French, but even our most favoured allies. Nay, more than that, Sir, our own merchants, I am afraid, would in case of an immediate rupture with Spain be the greatest sufferers. This, Sir, must happen, not only by the great insurance, which has in this country been made upon those effects, which possibly may fall into the hands of our privateers and ships of war; but by the concerns they have with the Dutch, French, and all other European nations. Commerce is of a very delicate nature, and whatever affects too sensibly one part of the trading interest, must necessarily affect the whole. Therefore, Sir, I think it would be highly improper for us to pass a Bill, that must give such a shock, as our passing this Bill at this juncture must certainly do. If the instances of his Majesty for a fair and honourable peace should be ineffectual, it is very probable that such a Bill will be then thought of. But we ought by no means to anticipate the rupture, by doing any thing that may render it unavoidable. I shall not trouble the House farther at present; other gentlemen, I dare say, will speak more fully upon the question; but, I thought my bare negative was not sufficient upon this occasion, without my shewing publicly how heartily I am against our passing this Bill.

Mr. *George Wright* (member for Leicester) took notice among several other things, that gentlemen were very apt to attribute the Spanish depredations in America, to the whole nation of Spain; that they talked as if these depredations had been authorized, or at least approved of by the government of that kingdom. Whereas, it did not yet appear, that the government had so much as connived at any of them. Nor had the court of Spain,

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as yet, refused to order restitution in any one case, where the seizure had been made appear to be unjust. That there was therefore room still left for negociation; and that if we could obtain by peaceable means, the utmost we could expect by force of arms, he was sure no man of common prudence, unless he had some other view than that of the good of his country, would advise us to provoke the kingdom of Spain to a war. He said, he hoped he had always shewn himself as jealous for the honour of his country, and as zealous for asserting it upon all occasions, as any man ought to be; but that, on the present occasion, he must needs think, that the House had already sufficiently testified its zeal for the honour of the nation, and our concern for the sufferings of our merchants and seamen. That they had already addressed his Majesty, to use his utmost endeavours for obtaining reparation to our merchants, and satisfaction to the nation. That they had promised to support his Majesty, in whatever measures he should find necessary for that purpose. That they had even made some provision for a war, in case it should be found necessary: and that, in consequence of what they had done, they could make no doubt, but that his Majesty had sent orders to his minister at the court of Spain, to insist upon a full and speedy satisfaction. That their zeal and unanimity in the Resolutions they had already come to, would probably open the eyes of the court of Spain, and produce a lasting and firm peace.

Mr. *John Talbot* (member for Brecon) said, that supposing neither the French nor Dutch had any share in the Spanish Plate fleets; yet it was certain, that our own subjects had always a very considerable share, and that he believed the English merchants trading to Spain, did return yearly large sums in bullion and Spanish coin to their native country. That as the law now stood, if any other ships in which they had a concern, should be taken after the declaration of war, his Majesty could separate their share from the rest, and return it to them. But that, if that Bill should pass into a law they must be ruined: and for what? for being concerned in a trade, by which they acquired great riches to their country, as well as themselves; which he thought would be a most extraordinary piece of injustice, as well as bad policy; unless we had given them timely warning not to be any farther concerned in that trade.

Mr. *Thomas Coster* said:

Sir; when gentlemen speak of a war between Spain and Great Britain, they are apt to imagine that we shall do great damage to our allies and our merchants, and violate the treaties betwixt the two crowns, in case we should pass this Bill into a law. As I have had some opportunities, Sir, of knowing a little of the trade between Spain and us; I cannot help observing, that gentlemen are mistaken, if they imagine that it would do either the one or the other. Our merchants, it is true, generally had some share in the Plate fleets; but I believe at present they have very little. This is owing to the long dependence of the negociations betwixt us and Spain, and the backwardness of the court of Madrid to give us the least satisfaction. This backwardness, Sir, notwithstanding all that has been said in favour of that court, was no secret among our merchants; and I will venture to say, Sir, that there is not a man among them who knows what he is doing, who has not foreseen a rupture, these two or three years back, and taken care to provide for the worst. As to our merchants residing in Spain, Sir, can any gentleman imagine that when they saw how our merchants and sailors, who in consequence of the treaty of Seville applied to the court of Madrid for redress, were treated at that court, they would have exposed their effects upon presumption that no rupture would ensue? It is now, Sir, some time since we entered upon the affairs betwixt Spain and us; and I dare say, as soon as it was but whispered in Spain, that the parliament of England had resolved to look into the complaints of our merchants, there is not a man there, who had any effects that were not secured before, who has not taken care to secure them since. If any neglected to do this, we may conclude that they are Spaniards, that is, they are naturalized there, and do not intend to return.—The other objection that gentlemen seem to have to this Bill is, that if we should, after a declaration of war, attack any of the Spanish ships which have the treasures on board, we shall violate the treaties subsisting betwixt us and our allies. It is very true, Sir, that the French, the Dutch, and several nations in Europe, have a good deal of property on board the Spanish Plate fleet; and perhaps, if we should take it, it might do them a good deal of damage. But then, Sir, it is as true that if we did take it, there is no nation in

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Europe that could say, 'You have injured 'us.' There is no nation I say in Europe which could complain that we had broken our faith, or our treaties with them. The reason of this, Sir, is very plain: all the trade we, or any other nation carry on with the Spanish settlements in America, is entirely collusive: it is no less certain, that all the property which we have in the Plate fleet, is registered in Spanish names; and therefore, no other nation besides the Spaniards themselves, can claim a shilling's worth of it. This is positively stipulated by treaties; so that if in case of a war, the Spanish Plate fleet were to fall into our hands, neither the French nor the Dutch could come to us and say; 'These goods, 'or that money is ours; and you break 'the law of nations, you break your trea-'ties with us, if you shall pretend to detain 'them.' Should any nation, Sir, talk to us in that manner we might fairly put them to defiance to prove their property: I am sure they could not do it by any thing that should appear in the hands of the masters or sailors, or owners of the ships taken; because it is death, by the laws of Spain, for them to take a shilling's worth of effects on board, belonging to the subjects of any other crown, or state besides Spain. Therefore, Sir, no nation could prove their property in the Plate fleet; and though they could, yet we could have no reason to regard their claim, since it must be founded upon a breach of treaties, among almost all the powers in Europe.

Colonel *Bladen* spoke next:

Sir; there is no manner of doubt but that every thing, which the hon. gentleman who spoke last said, is true: but yet it is a matter highly worthy of this House to consider, whether we ought at present, by obstinately adhering to the words of treaties, which I will venture to say no nation has ever yet done in this case, to make all the rest of Europe our enemies. The benefits which this nation, in particular, receives from that collusive trade mentioned by the hon. gentleman, is so great, that the parliament of Great Britain has always very cautiously avoided doing any thing, that might in the least affect it. The Spaniards, on the other hand, for very good reasons, have always winked at our carrying on that commerce: they find that they are obliged to have recourse to the European nations for many commodities, without which they cannot subsist. Thus a mutual conveniency begets a mutual connivance, and this House was so sensible of the great advantages which arose to the nation in the last war, from the commerce with the Spanish settlements in America, that in that very Act which has been so often mentioned by gentlemen, there is an express clause, by which certain limits, near the mouth of the Rio de la Hacha, are excepted, by declaring, that no ships of the enemy taken within these limits ought to be looked upon as lawful prize. What was the reason, Sir, of this exception, but because the government was very sensible of the sweets of such a commerce? for that reason they thought it improper to discourage it even in time of war: and in order to encourage it they inserted that clause. The reason, Sir, why the Rio de la Hacha is more particularly excepted, is because of the great trade which we carried on there; and the frauds practised by our merchants and seamen in that trade. When an English ship came upon the coast, the Spaniards immediately put off their boats to enquire, what commodities she had on board: as soon as they learned, they returned to bring money or effects to purchase our commodities: in the mean time the English gave the watch-word to some other of their own ships lying on the same coast, or perhaps manned out their own boat, and ordered it to lie at some distance, when the Spaniards should return. Some time after the Spaniards returned, and commonly bought what they wanted at a very dear rate, paying down ready money or effects which would bring money: but they no sooner put off from our ships, than our people, who were ready waiting, immediately clapped on board them, and stripped them of every thing. Thus one cargo was sold perhaps half a dozen times over: these practices gave the Spaniards such disgust, that they refused upon any terms to deal with us; and the parliament was so very sensible of the damage which this shyness and distrust did to the trade of the nation, that the clause I mentioned was inserted.

I have been the more full upon this particular, Sir, because gentlemen, perhaps, are not sufficiently aware of the great consequence, which this trade is of to this nation. At the same time, Sir, I own that as the hon. gentleman who spoke last said, the trade is collusive, that is, it is against the letter of the treaties subsisting betwixt us and Spain. But then, it is such a collusion as this House has thought to be

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highly in our favour. Therefore, Sir, I think gentlemen ought upon this occasion to consider how proper it is to pass a Bill, that may alarm the Spaniards so much, even though no rupture should ensue, that it may put an end to all manner of commerce. But there is, Sir, another part of the Bill, which greatly deserves the attention of this House, and that is with regard to the clause in this Bill, by which his Majesty may grant commissions or charters to any persons or societies, to seize upon, take, and enjoy as their own property, any lands, fortifications, or harbours belonging to the enemy. This, Sir, is a clause, that all the nations in Europe, should it be passed in this House, may think themselves bound to oppose.

I know, Sir, it will be said that such a clause passed in the act of the 6th of queen Anne: but give me leave to observe, that there is a very great alteration with regard to the footing we are now upon with Spain, from what we were upon at the time when that law passed. This clause at that time, was liable to no exceptions from any preceding treaties. The only two treaties we then had with Spain, which a clause of this kind could any way affect, were those in the years 1667 and 1670, and there is no provision in any of these treaties, that could make the parliament of England afraid of passing an act with such a clause in it. Nay, Sir, this clause was no new thing at that time; for a foundation had been laid for it by one of the articles of the last grand alliance, which was entered into by king William; by which all the places, which this nation could conquer from the crown of Spain in the West-Indies, were to be annexed to the crown of England. This article was a proper foundation for this clause in the act of the 6th of queen Anne, for encouraging our trade to America; but, give me leave, Sir, to remark, that at that time, all the Spanish West-Indies was in the hands of the French, and this nation understood, that the French king never could have been able to hold out as he did, in the long war betwixt the confederates and him, if it had not been for the treasures he brought from thence. Therefore, neither the Dutch, the Emperor, nor any of our allies, were jealous of our doing a thing that might distress the common enemy in so tender a point.

But how does the case now stand? Why, Sir, by the Treaty of Utrecht, particular care is taken that no part of the Spanish dominions shall be alienated; and all the contracting powers in the Grand Alliance are guarantees for the observance of this article. Give me leave, for the more full conviction of gentlemen upon this head, to read the articles of the treaty of Utrecht betwixt us and Spain, which regard this stipulation.

By the 8th article it is expressly stipulated, "That neither the Catholic king, nor any of his heirs or successors whatsoever, shall sell, yield, pawn, transfer, or by any means, or under any name, alienate from them, and the crown of Spain, to the French, or to any other nation whatever, any lands, dominions, or territories, or any part thereof, belonging to Spain, in America. On the contrary, that the Spanish dominions in the West-Indies may be preserved whole and entire; the queen of Great Britain engages, that she will endeavour, and give assistance to the Spaniards, that the ancient limits of their dominions in the West Indies be restored, and settled as they stood in the time of the above said Catholic king, Charles 2; if it shall appear that they have in any manner, or under any pretence, been broken into, or lessened in any part, since the death of the aforesaid king Charles 2." Which article is confirmed and enforced, by the 1st separate article of the same treaty, in these words. "It is further agreed by this separate article, which shall be of the same force, as if it was inserted word for word in the treaty, this day concluded between their royal majesties, that since his royal Catholic majesty is stedfastly resolved, and does solemnly promise by these presents, that he will not consent to any further alienation of countries, provinces, or lands of any sort, or wherever situated, belonging to the crown of Spain; her royal majesty of Great Britain does likewise reciprocally promise, that she will persist in those measures and councils, by which she has provided and taken care, that none of the parties in war shall require or obtain of his Catholic majesty, that any further part of the Spanish monarchy be torn from it; but that any new demand of that kind being made, and the same refused by his Catholic majesty, her royal majesty of Great Britain will use her endeavours, that such demands shall be receded from."

Having read these Articles, Sir, I shall submit it to the House, how proper it would be for this House to pass a Bill, before any war is declared betwixt us and Spain, for destroying the whole intention

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of these Articles, especially before we know how the other powers of Europe are affected. Gentlemen ought to consider, how those powers we expect to be our allies, should we go into a war with Spain, will look upon a step which has a direct tendency to destroy one of the principal Articles of the treaty of Utrecht. Therefore, Sir, however necessary this Bill may be after a war is declared with Spain, I cannot think that at present it would be either wise, or expedient for this House to pass it at present.

Lord *Polwarth* spoke next:

Sir; I am as sensible as any gentleman in this House can be of the great advantage, that our trade with the Spaniards in America has brought to this nation: but, I can by no manner of means see how the hon. gentleman who spoke last, can apply it to this Bill. We are now deliberating whether this Bill ought to be passed, in order to convince the Spaniards, and all Europe, that we are resolved no longer to bear their insults and injuries. Upon what pretence, Sir, were these insults and injuries committed? Why upon that very fact which the hon. gentleman has mentioned, as a great advantage to this nation; I mean our merchants carrying on an illicit trade with the Spaniards in America. Yet, Sir, I see some gentlemen here who have justified the Spaniards in all their cruelties, in all their insolence, upon this very principle, that the subjects of Great-Britain deserved such usage, because they were concerned in that trade. I shall however leave these points to be reconciled among the honourable gentlemen's friends; but beg leave to take notice of one or two things that were thrown out.

The hon. gentleman who spoke last, said that in our trade upon the coast of New Spain mutual conveniency had begot a mutual connivance; and, Sir, will it not always do so, whether we are at war with Spain or not? The trade betwixt us and New Spain, is just as much prohibited by treaties in time of peace as in time of war; so that our passing this Bill will not make the Spaniards a bit more shy in trading with us than they were before. For if no war follows, upon our passing it, then the Bill has no effect; and if a war should follow, then they are in the very same danger as if this Bill had not passed. For their ships and all their effects become lawful prize to his Majesty and the captors; so that it can be of no manner of consequence to Spain, whether we pass this Bill or not. All the consequences regard our own seamen; and the consideration that ought to determine this House, is that it will encourage our seamen to enter immediately into his Majesty's service; and it will likewise encourage private adventurers to send out privateers as soon as war is declared or hostilities begun. Both which must be a greater advantage at the commencement of a war, than they can be after the war has been for some time carried on, because our enemies will then be more upon their guard, and better able to repel an attack, than they can be supposed to be at the beginning of a rupture. By encouraging our seamen to enter voluntarily into his Majesty's service, we shall not only put it into the power of our government, to fit out a powerful squadron in a few weeks, perhaps in a few days after they have resolved to begin hostilities, or to declare war; but we shall also in a great measure prevent our being obliged to have recourse to that destructive method of pressing, which is so inconsistent with our constitution, so hurtful to our trade, and so oppressive upon our seamen, who are, I may say, the most useful part of our people.

Mr. *Pulteney*:

This Bill, Sir, is in every part so evidently calculated for the ends proposed by it, that I am greatly surprized that the hon. gentleman who first spoke against it, and who, by his single disapprobation, has raised all the opposition it has met with, can see the clauses he objects to in so disadvantageous a light. I am persuaded, if gentlemen had seriously reflected on the design and natural consequences of such a Bill, they would have spared their objections. The principal end, Sir, proposed by it, is to prevent a war, and the way to obtain this end, is by a public act of the legislature to make it known to all the world, that we have raised the ardour, and encouraged the hopes of our seamen; that we have animated all our fellow subjects (in case a peace is refused) to distress the enemy by seizing their wealth and possessions, and consequently diminishing their power. All the arguments therefore brought against the Bill on the supposition that it will tend to plunge us into a war, are drawn from wrong conclusions. Instead, Sir, of precipitating us into a war, this Bill must hasten on a peace. By it we are assisting the ministry; we are

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strengthening their hands; we are giving weight to their negociations; we are letting Spain see that we are in earnest to secure our rights by a safe and honourable peace, or to vindicate them by a vigorous war. In a word, Sir, if the warmest friend of the ministry,—if the honourable gentleman himself, had been forming measures to procure a peace, they could not have thought on a more ready and a more effectual expedient than this Bill.

But, Sir, before I proceed to answer the objections that have been thrown out on this occasion, I must beg leave to remark, that ever since I had the honour to sit in this House, I never saw gentlemen so negligent of parliamentary duty, as I have observed with regard to their proceeding upon this Bill. It is always the custom to consider a Bill when it comes into a committee, and if the objections that lie against it, are too weighty to be got over, the Bill is then thrown out, and the House has no further trouble; but if the objections are of such a nature, as to be removed by making amendments to the Bill, it is our duty, Sir, to lay these objections before the House in the committee, that the proper alterations they be made. If no further objections are made when the Bill and amendments are reported, it has always been looked upon as having the sense of the House for it, and receiving a tacit approbation. The chief objection, Sir, made to this Bill, (and indeed it is the only objection of any weight I have yet heard against it) was, that as at first intended, it did not give our allies a sufficient time for withdrawing their effects out of the Spanish ships: but so unwilling, Sir, were the friends of this Bill to leave the least obstacle to a measure, which in their apprehension was not only proper but necessary, that in the committee they removed that objection, (though I do think it was very ill founded,) by making the term from which this Bill is to take place, to be two months after the commencement of hostilities, or the declaration of war. This being done, it might be presumed, to the satisfaction of the objectors, only one slight negative being given to the report from the committee, the strenuous opposition still made, is the more unexpected in this House, because the Bill now can neither wound the honour, nor affect the interest, of our allies, those favourite topics so warmly insisted on and espoused by the hon. gentleman.

Having said this by the way, Sir, I shall now beg leave to consider the weight of those objections, which, in the hon. gentleman's opinion, and that of the gentlemen who have spoke on his side, lie against the Bill; and when I have answered these, as I hope I shall be fully able to do, I make no doubt but the hon. gentleman will keep his word, and be open to conviction. I hope I may be indulged if I shall repeat some part of what has been already taken notice of; especially since I see many gentlemen here who were absent when the Bill was in the committee, and who possibly may not be fully informed of what then passed. It is natural, Sir, for every man to wish another of the same sentiments with himself, and as I cannot concur with the hon. gentlemen in their opinion, I shall endeavour to convince them of the reasonableness of mine.

I beg leave to observe in the first place, that the hon. gentleman, in this whole affair, has shewn a great jealousy for the honour of Spain: but, in the mean time, has he not been too forgetful of the honour of Britain? He has taken it for granted that we are now at peace with Spain: he and his friends have all along reasoned upon this supposition; they have drawn consequences from it, and upon this supposition, they have grounded their negatives to the Bill. But, Sir, give me leave to say, that the war has been long begun; that many blows have been received, which it is now time to return. We have, Sir, to a melancholy degree of certainty, heard how the most useful body in the nation has not only been insulted, plundered, and imprisoned, but tortured and maimed in cold blood. Outrages! not to be justified in the heat of war, and which the law of nations will not allow enemies to practise on one another. But, Sir, we have not heard of any satisfaction offered on the part of Spain; we have not heard of that court's disowning the proceedings of any one of their governors; we have not heard of their altering that unjust, partial, and barbarous method of trial in Spain, by which our countrymen, who fall into their hands, are deprived of all means of making their defence. We have not yet heard of any of these governors being called to account for those oppressive and cruel measures; but on the contrary we have seen their cruelties recommend them to favour, and their insolence encouraged by rewards. This, Sir, give me leave to say, is a direct proof of the approbation of the Spanish court. The practice is consistent

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enough with her present maxims, with her claim of searching our ships, and her usurped authority in the American seas. The manner, Sir, in which they treat the British subjects, who have been reduced to the necessity of waiting their decisions, is as barbarous as their pretexts are unjust. The first thing that is done after their persons are imprisoned, is to sequester their effects, and destroy their papers. Thus they are at once deprived of all possibility of making any defence, even suppose they were to plead before an indifferent judge: but it is not hard to guess what must be their fate in a question of property, where the judge is a party. I have but slightly, Sir, touched upon these matters of fact: the House has already heard, from the mouths of the unhappy sufferers themselves, the melancholy accounts of their treatment. These accounts made, Sir, (I was pleased to see it) a suitable impression upon the mind of every gentleman who heard them; and I dare say, are still so fresh in his imagination, that the idea need not be revived. The reason, Sir, why I have touched upon them at all, is to prove what I have already advanced: that Spain has long been in a state of a war with us; though gentlemen have chiefly insisted upon the injustice of attacking her in the time of peace, I would gladly know what is hostility? Have we not lived, Sir, to see the Spaniards insult us in the very seas of which we call ourselves masters? Have we not lived to see the subjects of Britain made slaves by a people of whom they were once the terror? Have we not lived to see the British flag, once a protection to our merchants, become to foreigners an object of scorn, and to our fellow subjects destruction? As these are facts but too certain, can any one doubt but that Spain considers us as enemies? Or can we deliberate a moment what measures we are to take? The hon. gentleman was pleased to express some resentment against falling in with popular measures. For my share, I think popular measures are probably right measures, because their being popular proves them to be agreeable to the general sense of mankind. This, Sir, I think, is a just way of forming a judgment in cases so plain as the present: for there is no occasion, Sir, for a man to be acquainted with mysteries of state, or the secrets of government, in order to know that injustice is to be redressed, and the freedom of commerce to be secured.

I come now to examine that argument upon which the hon. gentleman lays so much stress; I mean, Sir, the manner in which France would determine herself, should the present Bill pass into a law. The hon. gentleman has been pleased to tell us how, in his opinion, France would reason upon such a step. But, Sir, the affair appears to me with a quite different face. It appears to me, that the court of France would be far from hazarding the great share of that property she has in the Plate ships, by taking the part of Spain in this quarrel. She knows, or we ought to let her know, Sir, that we have been barbarously and injuriously used by the Spaniards. She is too well informed of what passes here, not to know that there is without doors an unanimous spirit of resentment and revenge. The present Bill, Sir, will let her see that this House is in the same disposition. She knows what Resolutions both the Houses have already come to on this head; and as she knows all this, Sir, can it ever be supposed that she will act so inconsistently with her usual politics, as to leave to war what she may obtain by negociation? She knows, Sir, that her naval force, even when joined with that of Spain, will still be inferior to ours, provided that we exert our force; and this Bill shews her that we shall exert it. What then will be her next step? Not a declaration of war with this nation; such a procedure would neither be just nor prudent. The wisest and most obvious step she can take is to apply to the court of Spain. 'You have wronged the British subjects, says she, you have insulted and plundered their merchants, till the national resentment is now awakened; all parties and all degrees of men in that country concur in the Resolution of taking a severe revenge, or obtaining an ample satisfaction. You are singly no match for Britain, nor is my fleet in a condition to assist you. But though it were otherwise, there is no reason that I should put myself to expences to support your injustice, or to fight your quarrels. My property on board your Plate ships, is very large; it runs a great hazard, if once we suffer a war to break out. I have no room to hope, that after the war is over I shall recover my losses, as usual, by negociation. You know the parliament of Britain has passed a Bill, that puts it out of their own power to restore part of the wealth that shall be taken by their fleets. Nothing therefore remains, but that you give the satisfaction so justly required, and that

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security for their future commerce to which you are obliged by so many treaties.'—This, Sir, I think, and not what gentlemen have suggested, will be the language of France, if we pass this Bill. And, Sir, as I observed before, it is impossible to contrive any Bill that can strengthen the hands of our ministers more, or give a greater weight to their negociations. Kings, Sir, I believe, when they are rightly informed, are as honest as other men, and can make as true a judgment of their own interest. France will find it for her advantage to lay before the court of Spain, the true state of the differences betwixt us. She will tell him plainly, how we have been wronged; she will tell him, that our demands of satisfaction are supported by justice; and that his own interest requires a compliance; since a refusal must involve him in a war, to which he is not equal, and for which he is unprepared. Can we imagine that the court of Madrid would be deaf to such arguments as these? or can we suggest to ourselves any one advantage that ministry can expect to obtain, by exposing their country to a war in defence of unjustifiable measures? Thus, Sir, France will indeed become a party in this quarrel; but if she regulates her conduct by justice, policy, or common sense, she will not declare for Spain; nor can the passing this Bill have the effect apprehended by the honourable gentleman.

But, Sir, setting aside all these considerations, we shall suppose that France is absolutely resolved, at all events, to support Spain. We shall suppose that Spain is obstinate in her refusal to do us justice; that she is determined to insist upon her right to search our ships, and to detain the effects of our plundered merchants: In short, Sir, we shall suppose that the court of France sees this affair in the very light that the hon. gentleman has mentioned. But is not this a fatal, is it not an eternal argument against resenting any future injuries from Spain, where the court of France shall please to interpose? This argument, Sir, will hold equally good at all times; and I shall be obliged to any gentleman who could mention a case, in which, if any power of Europe should differ with us, the court of France might not equally oblige us to recede from our rights. I shall readily grant, Sir, a difference may possibly arise betwixt us and other powers, and that it may be the interest of France to stand neuter till we have sufficiently weakened one another. But give me leave to say, Sir, that if we reason from the topics the hon. gentleman was pleased to make use of, this can never be the case with respect to Spain, because there never can be a time in which Spain will not have the same property in the Plate ships as she has at present: and consequently there can be no time in which we shall be able to redress ourselves without her leave. I appeal to every gentleman that hears me, if this be not the natural consequence of this argument. Had the hon. gentleman carried it as far as it would go, he would have told us in direct terms, "Your seamen are to be enslaved, your merchants plundered, and your trade ruined, because if you take one step to prevent it, France will interpose. You have indeed fine possessions in America; you have an extensive commerce, and flourishing colonies, which may contribute greatly to the riches of this country, if France pleases to permit it. You have received the most infamous treatment, and the honour of your country has been wounded by a long tract of injuries and insults; there is now a fair opportunity put into your hands of being revenged. Yes, you may, if France pleases: in short, if she please not to interpose in favour of Spain, you may be secure against all future interruptions of your commerce." This is a doctrine, Sir, which I never hope to hear publicly avowed in this House; and what influences it may have in other places, I shall never wish to see it adopted here. I hope, Sir, it will always be our maxim to command justice where we are denied it: We have no need of allies to enable us to do this; the story of Jenkins will raise volunteers.* We have already enabled his Majesty, if war becomes necessary, to prosecute it with vigour; and if peace shall be more eligible, our passing the present Bill is the readiest way for us to procure one that will be safe, lasting, and honourable.

Give me leave, Sir, to observe, besides the consideration I have already mentioned, one advantage that must accrue to the nation by our passing the present Bill. Any man who takes a view of our conduct for some years past, can never be at a loss to discover by what means our neighbours nave made such a progress in the art of navigation. He will easily see that it was owing to the many disappointments which our sailors received by the fluctuation of

* See the Note to p. 637.

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our councils at home. Fleets were equipped here at great expence, a vast parade was made, and our sailors hopes of enriching themselves, by what they should take from the enemies of their country, were wound up to the highest pitch: there is no wonder, Sir, if, when these hopes were disappointed, they entered into the service of other countries, where the encouragement that foreign princes wisely give them still detains them. Our passing this Bill is, perhaps, the only way of recovering them to our service. They will now see that we design more than an empty show, or mock expedition, that our resolutions of vengeance are fixed, and that it is now out of the power of any minister to defeat their expectations. This, Sir, will give them new spirits, it will revive their love for their country, and they will say to one another, in their plain and honest language, "We now see that our great men at home are in earnest; they have passed a Bill that will give us an opportunity to repay ourselves, with advantage, for the many losses and insults we have received from the Spaniards, and for the many disappointments we have met with at home. Let us now return to the service of our country: let us lay hold of this opportunity of making ourselves rich at the expence of the natural enemies of us and our nation. For my part, says one, I never would have entered into any other service, had I not met with so many disappointments in Britain; and since things are so and so, I shall chuse rather to serve there than any where else." Thus, Sir, our passing the present Bill is a necessary step for us to take, in order to recover our industrious seamen from foreign into his Majesty's service. This seems the only expedient by which this important end can probably be obtained. Thereby, Sir, we shall gain a double advantage; we shall deprive our neighbours of the means that have enabled them so long to rival us in our trade and navigation; and we shall increase the naval, that is, the real force of this island: In short, Sir, were this Bill to answer no other end besides re-inspiring our brave sailors with a confidence in those who have the direction of our affairs, I think that single consideration ought to outweigh any petty objections; which however will vanish of themselves, because, Sir, while his Majesty is possessed of the hearts of the sailors, he will be able to maintain both the dignity of his crown, and freedom of commerce to his subjects.

The honourable gentleman, Sir, who sits near me, has expressed himself with great tenderness and regard towards our merchants: I wish, Sir, they may find him, and every gentleman who has the honour to act in the administration their friends. I am sure they deserve all the friendship the ministry can shew, and all the encouragement and protection the legislature can give. I beg leave to say, Sir, it is owing to the commerce they carry on, that under a load of unnumbered taxes, and amidst all the discouragements of industry, we are yet able to supply the exigencies of government, that we are yet able to preserve the remains of that influence which this crown had once over the councils of the rest of Europe, and that we can yet say that there is one body of men amongst us independent. But, Sir, how long can our merchants preserve that independency, if their rights are not duly and vigorously maintained by that government to the support of which they so largely contribute? If they are left naked and defenceless by those who ought to be the guardians of our commerce, they must of necessity become the prey of every petty State. I need not call in distant facts, or recur to history for this melancholy truth. I am afraid all the late insults offered them abroad, are the consequences of a visible neglect of their interest at home. And from what has been, we may easily collect what will be the consequence of this conduct: We have already been insulted by our enemies; we shall soon be despised by our allies; we shall be considered as a nation without rights, or, what is the same, without power to assert them. This, Sir, must be our fate, unless we vigorously resent the injuries of our merchants, unless we require and command a reparation for their past sufferings, and a sufficient security from future insults, and unless, by a conduct resolute, and worthy of the British name, we restore our naval flag to its ancient reputation.

Having mentioned the British flag, give me leave to say, Sir, that we ought not to suffer our neighbours to dispute that point, either from their own constructions of treaties, from any former precedents, or from any late pacific forbearance. I believe, Sir, it is needless for me to explain in this place my thoughts more fully on this tender point; every gentleman who has heard of some late transactions must know what I mean. All the use I would

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make of it, is to put gentlemen in mind, that by giving up the honour of the flag, we give up the safety of our commerce; and, that by giving up our commerce, we betray the interest of our country. If the insolence of any of our neighbours has encroached upon the honour of our flag, either by calling it in question, or by any actual insults, it is our duty to pass this Bill, that they may be convinced of our resolution, not only to ascertain our rights of navigation in these seas, but to vindicate the honour of our flag throughout the world.

I shall now examine the consequences of the arguments produced in opposition to this Bill. It is alledged, that if it passes, the wealth of our allies may be seized without a possibility of making restitution. Now, Sir, I shall suppose a thing that I believe no gentleman can deny to be very probable: If we resolve upon procuring to our merchants a reparation of their past, and a security against future injuries, we shall be at last obliged to enter into a war. What part are we then to act? Are we not to distress Spain in every branch of her commerce? And shall we not most distress her by intercepting her Plate ships, and seizing that treasure to which she owes all her power and all her influence? That influence by which we are awed, and that power by which we are oppressed? But, Sir, according to some gentlemen's way of reasoning; this cannot be done. For if we take the Spanish Plate fleet, we must refund to our allies whatever belongs to them. Now, Sir, I appeal to every gentleman who has been a commander of a ship, or is conversant in these affairs, if he would not be very cautious how he attacks any ship for whose cargo he must be accountable? Do gentlemen think it easy for an admiral of a fleet, or a captain of a ship, to repress the ardour of their men when flushed with success, and perhaps irritated by resistance? Will not reason, even without experience, informs us that no authority, no exactness of discipline, can hinder the sailors from plundering or destroying? The next step, Sir, to be taken, is not, as usual, to adjudge those captures to be lawful prizes, but only so much of the cargo as belongs to our enemies; for our allies, it seems, are to bring in their claim upon us for the remainder; and they may perhaps be prevailed upon, without any great difficulty, by Spain, to extend their claim to the whole ship, when perhaps half is already disposed of by the sailors amongst themselves, or to pay the fees at a prize office.

But, without supposing any indirect confederacy between our enemies and allies, let us only remember that some gentlemen have asserted, that not a fifth, and others I believe more rightly, that not a tenth part of the cargo of the Plate ships belongs to the Spaniards. Now I am informed, by gentlemen that are no strangers to these affairs, that it is impossible for a commander to prevent more than even a fifth part from being secreted by their crews. I think the gentleman appealed, by my honourable friend who sits near me, has told us, that himself was brought in a debtor, upon a prize he took, and I am sure no officer can pretend to more authority and wisdom than himself. Can we then suppose that an officer will so far sacrifice his own interest to public spirit, as to attack the Plate ships of Spain? May we not more reasonably believe that he will avoid all occasions of falling in with them, than that he will purchase a barren reputation by the ruin of his family? Should we go to war upon these maxims, we should at least set all nations an unheard-of example of temper and forbearance; since, though we had the wealth of Spain in our power, the seizure of which must render them bankrupts, both amongst themselves and to their neighbours, we shall regard it as a treasure sacred and inviolable; while they are at full liberty to ruin our trade, to distress our colonies, to insult our flag, and to enslave our fellow subjects. Will not these be the effects of rejecting this Bill upon the grounds which the hon. gentleman and his friends have suggested? Have the hon. gentleman and his friends proposed any means to prevent them? I am sure if they had, or if they yet shall propose any such measures, I am as ready to concur with them as any gentleman in this House.

Hitherto, Sir, I have reasoned upon the supposition of the French having a large share and property in these Plate ships. And I shall readily agree that it is greatly the interest of their merchants that these ships may be unmolested. But that they have a property or a share in them, though it may pass very well among private traders, is not a language to be either used or understood by treating powers. We are, in a national controversy, to allow of no property or shares but what are agreeable to the treaties subsisting betwixt our

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crown and the crown of Spain, which has expressly precluded the French from trading to the Spanish West Indies; the treaties betwixt our crown and the crown of France have no less precluded any such trade. The last clause of the sixth article of the Treaty of Utrecht binds up France from hereafter endeavouring to attain or to accept of any other use of navigation or trade, upon any account, to Spain, and the Spanish West Indies, other than what was practised there in the reign of Charles 2, or than what shall likewise be fully given and granted at the same time to other nations and people concerned in trade. And, Sir, the words of the eighth Article of that Treaty, are so full and express, on this head, that I shall make no apology for reading them; "And whereas, among other conditions of the general peace, it is, by common consent established as a chief and fundamental rule, that the exercise of navigation and commerce to the Spanish West Indies, should remain in the same state it was in the time of the aforesaid Charles 2. That therefore this rule may hereafter be observed with inviolable faith, and in a manner never to be broken, and thereby all causes of distrust and suspicion concerning that matter may be prevented and removed, it is especially agreed and concluded, that no licence, nor any permission at all, shall at any time be given, either to the French, or to any nation whatever, in any name, or under any pretence, directly or indirectly, to sail to, traffic in, or introduce slaves, goods, merchandizes, or any thing whatsoever, into the dominions subject to the crown of Spain in America, except what may be agreed by the treaty or treaties of commerce aforesaid, and the rights and privileges granted in certain conventions, commonly called the assiento for negroes, whereof mention is made in the 12th Article."

These are the words of the treaty; and words more express there cannot be. Now, Sir, there never was a treaty betwixt Spain and any other nation, by which Spain gave them a right to import a single piece of eight in their own names; and to this day every piece that is imported in the name of any other merchants besides those of Spain, is by the law of Spain confiscated to the king. This has been already very well spoke to by an hon. gentleman in this debate, who is himself engaged in trade. But, Sir, as the alteration that has been made in the present Bill by the committee, makes it impossible for the French, or any nation except Spain, to suffer by our proceedings, because they will have time to withdraw their effects; I conceive the force of the argument against this Bill, that is built upon the prejudice which it may do, with regard to our allies, falls to the ground. This concession, this regard which we have shewn for the interest of our allies, must, if they have either candour or gratitude, make them sensible how tender we are of their interest, and how unwilling to give them any provocation to become parties in this quarrel. It will shew them that we have no other design in passing this Bill, or in entering into a war, than to assert our rights, and secure our commerce. At the same time, it gives them, as the gentleman expressed it, a fair warning, and shews them that we are not to be intimidated from pursuing our just resentment, even though they should obstinately neglect to withdraw their effects, or to continue to embark them in Spanish vessels. These are some of the good consequences that may perhaps attend the amendment that has been made, though I think there was little occasion for it; and I believe, I have now demonstrated that we were not obliged in justice to make any such amendment, or to regard the riches on board these ships as the property of any people except Spaniards.

I shall next, Sir, consider what was said by the hon. gentleman with regard to the loss that our merchants must sustain by insuring these effects. Every gentleman, who is conversant in trade, knows very well how great the difference is betwixt insuring upon a cargo, and insuring upon a bottom. As the insurance in these cases with our merchants, is upon bottomry, and not upon cargoes; if I am rightly informed, our merchants share, if the Plate ships should be seized, would be very inconsiderable. As to the difficulties in which our merchants who trade to Spain might be involved by this Bill, they are now provided against by the clause inserted by the Committee, which gives them an opportunity of putting their effects out of the reach of the Spanish government; though I believe, even this alteration was hardly necessary, because they must, from the conduct of the court of Spain, have long seen this cloud gathering, and we must suppose them lost in stupidity, if they have not provided for the worst. Nor can I find the least rea-

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son for imagining that a discovery of their effects will be acquired by torture, because a proceeding so entirely unheard of, so horrid in its nature, and so contrary to the law of nations and of arms, will fill the whole world with resentment and detestation, and load the authors with such a general and lasting odium, as the wealth they might hope to gain cannot countervail. But, Sir, because every gentleman cannot be supposed to be a judge of commerce, or the particular interests of merchants, I will propose an experiment, by which every one that pleases, may convince himself of the fitness of this Bill. Let any gentleman walk through Westminster and London, and ask every trader he shall meet, his opinion of a war with Spain, and of this Bill; he will not find six men in the number that will not declare in favour of both the one and the other. This, Sir, I believe many gentlemen in this House will admit to be fact, and then what becomes of all the arguments drawn from a tenderness for the interest of our merchants? Can we suppose that if they have such immense sums at stake as has been suggested, they would declare for the present Bill, had they not other advantages in view, that will overbalance all the loss they can sustain by our seizing the Plate ships? or must we not suppose, what is much more probable, that they have no such sums at stake, and that they therefore are pleased with the prospect of a war that will repress the insolence of their oppressors?

I cannot dismiss the cause of the traders to Spain, without mentioning a story, which, though I will not affirm it to be true, seems too remarkable to be suppressed. It is reported, Sir, that a counter petition was set on foot, and promoted by some in power with their whole interest, and utmost diligence. This counter petition, Sir, was to have been signed by the merchants trading to Spain, in order to be presented to this House, setting forth 'the hardships that the petitioners must 'suffer by a war with Spain.' To procure hands to this petition, no arts were untried, no threatenings, no promises were omitted; yet could they not get above 5 or 6 merchants, and those I am informed were Roman Catholics, to sign it; of no figure in trade abroad, and of no interest among our merchants at home. A Petition, Sir, signed by so few and so inconsiderable persons, against Petitions from all parts of the nation, would only have drawn contempt on those who promoted it, and was therefore with equal modesty and prudence laid aside. I will not be answerable for the truth of my information; and therefore if any gentleman who hears me, thinks himself injured by such a report, I hope I have obliged him by giving him an opportunity of vindicating himself. But be that as it will, I may venture to affirm that a counter Petition was set on foot, but miscarried for want of a number of hands to give it the face of a Petition fit to be presented to this House. This is enough to prove that all our merchants trading to Spain, except a very despicable number, are for a war; so that the tenderness of the hon. gentleman, is a tenderness by which they will not think themselves benefited, nor own themselves obliged.

But, says the hon. gentleman, the power of making peace or war lies in his Majesty's breast. It is a prerogative not to be wrested from him by Petitions, however universal, or by arguments, however specious. Sir, I know very well how far this prerogative of the crown extends, at least how far it ought to extend, and how safe such a prerogative is with his present Majesty: but hope it will not be imputed to want of confidence in his Majesty, if I affirm that even this favourite prerogative, this darling power, that is so warmly contended for, however reasonable it once was, may now be justly disputed. In former times, Sir, when our kings made war, they did it at their own expence, they went to the field at the head of their own tenants; if any advantage was gained, it was enjoyed by the nation; and if any loss was sustained, it was sustained by the sovereign. It was then but reasonable to indulge the monarch in this prerogative, because he could only exercise it at his own expence. But our sovereigns now make war at the expence of the nation, and hazard not their own revenues, but the fortunes, interests, and commerce of their subjects; and therefore, Sir, it would seem but reasonable that the people should be allowed to judge a little for themselves; that our kings hearken to their voice, especially when it is universal; when they are not influenced by the arts of designing politicians, or heated by the rage of party. Never was nation more unanimous than our people now are, in their demands of satisfaction for the injuries they have so long borne from the Spaniards. There can be no danger in complying with their importunities, since there is no war, be it

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ever so unsuccessful, but is to be preferred to such a peace, as can only flatter us with a false security, and expose us more effectually to a faithless plunderer.

I shall, Sir, but just touch upon the second article, by which Head-Money is granted to our sailors; the gentleman has owned, Sir, that this is a very proper measure; that it is not enough for us to be barely just, but that we ought likewise to be generous, if we would encourage men to endure toils, and face danger: he has indeed expressed himself, on that head, with great candour. All the remark I beg leave to make is, that the gentleman is rather for encouraging our sailors, at our own expence, than that of our enemies.

As to the objection against vesting the properties of places, taken from the enemies, in the persons of those who shall be incorporated by his Majesty for that purpose; I believe, Sir, we are at present in possession of several places conquered from Spain, several islands and fortresses of great consequence, which have not been restored, though some of them have been more than once demanded sword in hand. And I cannot see what should hinder us from securing our future conquests, as well as our past. It is true, that if we go about to beg or buy a peace, the effects of conquests in the hands of private persons will very much embarrass a treaty: but if we intend to command a peace, and insist on justice, it can only be effected by shewing that we are determined not to lose any advantage, that we shall gain by war.

I hope, Sir, what I have now said is sufficient to evince the necessity of this Bill. Former parliaments, Sir, have thought it proper to pass such Bills; it was then proper; it is now necessary. I am far from thinking that this nation ought to be the Drawcansir of Europe, to heap debts upon debts, and rush wantonly into war and expences. But, Sir, I am afraid new debts and new wars will be the natural consequence of such languid and spiritless proceedings as some gentlemen seem to favour. Every petty people, every nest of pirates, every combination of encroaching traders, will without scruple plunder a nation, that sits down tamely under the grossest injuries, and, instead of punishing, caresses the robber. If this act should not have the expected influence upon Spain, it will encourage our seamen, and inspire our fellow subjects with a just confidence in his Majesty and his administration, when they see nominal distinctions and party quarrels lost in the noble zeal for asserting the rights of our country, retrieving the honour of our naval flag, and repairing the losses of our injured merchants. Therefore, Sir, I give my hearty concurrence to this Bill.

Sir *Robert Walpole* thinking himself reflected on, took the opportunity to offer this justification of himself:

Sir; I believe it is owing to the zeal the gentleman who spoke last has for the honour of Britain, and to his indignation against the insolence of the Spaniards, that he forgot some of his usual candour in stating one or two points. As they personally relate to myself, I shall beg leave to trouble the House with a few words on this occasion.

And first, Sir, I appeal to every gentleman who has heard what I have said on this subject from the first day it was brought into this House, if I have dropped one word that could be wrested to the meaning imputed to me by the hon. gentleman. Can any gentleman collect from the expressions I used, that I was jealous of the Spanish, but forgetful of the British honour? I dare appeal, Sir, to any man who knows me in private life, if he ever at any time heard such an insinuation fall from me. All I said on that point was in order to prove, that it would be extremely improper for us to pass this Bill, till we see the effect of his Majesty's late instances at the court of Spain.

The next part of the hon. gentleman's speech that personally relates to me, is what he added with regard to an abortive Petition. The gentleman said, "he was informed, it was reported, but that he would not be answerable for the truth of his information?" but, Sir, is this a fair way of reasoning in this House? to make insinuations have any weight, they must be founded on acknowledged facts. But if these facts are misrepresented and aggravated with invidious circumstances; if suspicions are entangled with certainties, and conjectures worked up into invectives; may not the most innocent behaviour countenance the most cruel and unjust reflections; may not the clearest integrity be impeached, and reputations sported away? It is very true, that a certain Petition was designed, and that design was afterwards dropt. So much, Sir, and not one word more of what has been asserted on this head, is truth. But, Sir, as I have been personally pointed out, I must beg leave

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to set this affair in a just light: it is against my inclination that I touch upon it at all; but I am forced to it, by the regard that every man ought to have for truth, and for his own character.

The design of the Petition, which is invidiously called a Counter-Petition, I will take upon me to assert, was not set on foot by any one concerned in the administration, as the hon. gentleman seems to insinuate. It was a measure begun and promoted by some of the most considerable merchants of the kingdom, and, for aught I know, men as well affected to our constitution both in church and state, as any gentleman in this House. After they had concerted the scheme amongst themselves, they came in a body to desire my advice; which was, Sir, that they should proceed no farther in it. I told them, that I would not be concerned in any thing that would give the Spaniards the least reason to imagine that the trading interest of Great Britain was divided in this affair, or that this House would not be unanimous in its zeal for procuring just and ample satisfaction for the injuries of our countrymen, and the obstructions of our commerce. At the same time I shewed them that they were acting contrary to their own interests, and that they could hope for no other favour from Spain than to be the last whom she would ruin. Upon this, Sir, the design was dropped; and I believe this is known, by several present, to be the true state of the fact, which the hon. gentleman has been pleased to represent as a piece of ministerial craft. How far the arguments produced are conclusive, let the House judge: for my part, I do not forget my promise of being open to conviction; but I must feel the force of an argument before I acknowledge it, and perceive my objections invalidated before I recede from them. I do not perceive that the gentleman has added any weight to his own reasons, or taken away any from mine, and therefore I am against the present question.

Mr. *Thomas Winnington* said:

Sir; the importance of the question before us, will justify me in saying something, though the time will not allow me to say much. The present Bill I apprehend to be such, that we should, in passing it, neither observe our treaties, nor consult our interest. Our provocations have indeed been great and many; our merchants have met with barbarous treatment; and that too has been authorized, or at least connived at by some of the Spanish governors: nor shall I pretend to say that these governors have been hitherto punished by the court of Spain. But, Sir, neither the court of Spain, nor we, till of late, were certainly informed of the truth of our merchants' allegations; and while facts are yet in dispute, though justice may be delayed, it is not properly denied.

The convincing proofs we have now received, are laid, by his Majesty's order, before the court of Spain; let us wait for the event of these remonstrances, which perhaps may procure us all the advantages we can hope for from a war, without the hazard, the blood, and the expence. If these remonstrances are neglected, what have we lost? we have still our swords in our hands, to command justice, if we are denied it. We may then declare war, and prosecute it with the utmost vigour; the delay will, I hope, give new spirit to our councils, because it will give justice to our cause.

As the hon. gentleman, Sir, has been pleased to quote an article or two from the Treaty of Utrecht, I shall beg leave to do the same. And first, I shall read the 17th and 18th articles of that treaty: "17. But if it happen through inadvertency, imprudence, or any other cause, that any subject of either of their aforesaid royal Majesties, do or commit any thing, by land, sea, or on fresh water, in any part of the world, whereby this present treaty be not observed, or whereby any particular article of the same hath not its effect, this peace and good correspondence, between the queen of Britain and the Spanish king, shall not therefore be interrupted or broken, but shall remain in its former strength, force and vigour; and that subject only shall be answerable for his own fact, and suffer such punishment as is inflicted by law, and according to the prescriptions of the law of nations. 18. But if (which God forbid) the disputes which are composed should, at any time, be renewed between their said royal Majesties, and break out into open war, the ships, merchandize and goods, both moveable and immoveable, of the subjects on both sides, which shall be found to be, and remain in the ports and dominions of the adverse party, shall not be confiscated, or suffer any damage; but the space of six months, on the one part and the other, shall be granted to the said subjects of each of their said royal Majesties, in order to

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their selling the aforesaid things, or any other their effects, or carrying away and transporting the same from thence, whithersoever they please, without any molestation."

I believe, Sir, the words of these two articles need no commentary, they being so full and express in themselves, and their meaning so directly contrary to the tenour of the present Bill. While war is yet not declared, and before the court of Spain has avowedly refused to do us justice, the injuries and violences complained of, are the crimes of private persons; not hostilities, but piracies; and so I shall stile them, till a refusal of justice makes them the acts of the state. There are several instances, Sir, and some mentioned in the petition to this House, wherein our injured merchants have been favourably heard by the court of Spain. If her intentions to grant them relief were frustrated by the villainy of her governors in America, that is no more than I believe happens every day, in relation to other courts, where their dominions are so remote. Therefore, Sir, until we hear the answer of the court of Spain to our late instances, we can never affirm that the crown of Spain has, by any public act, authorized the depredations complained of.

The hon. gentleman has been pleased to omit taking notice of another material objection to this Bill: this, Sir, regards the obligations that our crown is under, not to consent to any future alienations of any part of the Spanish dominions in America; though he might have found the words by which this is expressly stipulated in one of the articles which he himself was pleased to quote. It is in the latter part of the eighth article of the said treaty, where we meet with this clause; "That the Spanish dominions in America may be preserved whole and entire, the queen of Great Britain engages, that she will endeavour and give assistance to the Spaniards, that the ancient limits of their dominions in America be restored and settled as they stood in the time of king Charles 2, of Spain, if it shall appear that they have, in any manner, or under any pretence, been broken into and lessened in any part, since the death of the king aforesaid."

This, Sir, was a point of so great consequence, that the first article of the said treaty confirms it in terms still more full and express; "Since his royal Majesty of Spain is stedfastly resolved and does solemnly promise by these presents, that he will not consent to any further alienation of countries, provinces or lands, of any sort, or wherever situate, belonging to Spain, her royal Majesty of Great Britain does likewise reciprocally promise, that she will provide that no further part of the Spanish monarchy be torn from it." After such a stipulation as this, what can our passing the present Bill be termed, but a manifest violation of the public faith? but because arguments founded upon interest are too often of greater weight than those drawn from mere speculative justice, I shall beg leave to offer my opinion of the effect which such a procedure would have upon that commerce, for the preservation of which these measures are proposed.

I have, Sir, many times heard it asserted, that we are losers in every branch of trade, except to our plantations, and to Portugal: if this is true, let us not, without the utmost caution, give way to counsels that may injure these two only valuable branches of our commerce. I believe, Sir, it will easily be granted me that the Spaniards are superior to us in the American seas. Their ships are indeed very much inferior to our men of war, yet such as our trading vessels cannot resist: these ships, the vast extent of their coasts, and commodiousness of their harbours, give them an opportunity of equipping in such numbers, that the men of war which we shall be willing to dispatch thither, will not be able to protect above a fifth part of our merchants. Nor is this the only or the greatest danger, to which our commerce will be exposed. The open efforts of Spain may be guarded against and defeated, but the silent encroachments of France we shall not have leisure to observe, nor opportunity to prevent; the first will cease with the war, but the other will still remain to upbraid us with our rashness and imprudence.

As to the hopes, which the hon. gentleman seems to entertain, that France will interpose in our favour, I cannot but think them perfectly chimerical. France has rarely sacrificed her interest to her generosity, or assisted her neighbours to her own prejudice. What prospect of advantage can induce her to represent the justice of our cause to the king of Spain? Will not she grow rich by our differences? will she not extend her commerce undisturbed, and enlarge her power without opposition? Her power in America is already formidable, and her colonies flourishing. Shall we not by a war increase that power, and

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add new strength to our ancient and natural enemy? Nor will France confine her acquisitions to the West Indies, but make the same, if not greater advances in Europe; the trade to Spain, a trade more considerable and gainful than is commonly imagined, will fall at once into her hands. She will then grasp at Portugal; and how easily she may insinuate herself into that trade, will appear from the bare inspection of a map of Europe. Let it be remembered that the sea will be open to her vessels, while our merchants will not dare sail without a convoy; let it be considered how easily Spain may station her fleet at the very mouth of the Tagus, and the dangers of a war will be easily comprehended.

I shall beg leave, Sir, only to offer one word in answer to what the gentleman advanced, with regard to the royal prerogative of making peace or war; and indeed, Sir, his insinuation is so directly contrary to the known maxims of our government, that in some measure it carries its own answer along with it: gentlemen need only look into the Address we have presented to his Majesty, to be convinced what the sense of the House is on this head, and how consistent it would be in us, after such an address, to pretend to wrest that prerogative out of his hands.

The advocates for the Bill have advanced one assertion in defence of it, which, in my opinion, deserves particular notice. This Bill, how threatening an aspect soever it may bear, however it may swell with the tremendous sounds of head-money, conquest, and appropriation, is, it seems, only intended to procure a lasting and a speedy peace. These threats, it seems, are only to be thundered in the ears of Spain, the conquests are only to be talked of, and the land we mark out for perpetual settlements is never to be invaded. Are not these the satirists, who have exhausted their eloquence, and jaded their imaginations, to ridicule military shows, and mock expeditions?

But, not to give way to personal reflection on this important question, how can we guess the event of this bold experiment? Have they any assurance that the Spaniards, so elevated as they represent them with our cowardice, so daring, so haughty, and so insolent, will lose their spirits, lower their crests, quake with terror, and sink into despair, at the resolution of this House? That they will immediately beg for mercy as soon as we lay our hands upon our swords, without daring to hold out till they are drawn? Will mere words and empty sounds restore that reputation which has been so long lost, and so pathetically lamented? Is there any magic in an act of Parliament, that gives it power to freeze the blood, and slacken the nerves; to disarm squadrons and scatter fleets? Their reasonings seem to be founded in the full confidence of effects like these. For they have not vouchsafed to give us the least information how the expences of a war with a powerful nation may be supported; while they have justified measures of which, to vulgar capacities, war appears the inevitable consequence. The tenour of their reasoning is indeed not very uniform: they talk at one time of nothing but procuring a safe and honourable peace; at another, they seem to suspect that the Bill may produce open hostilities, and please themselves with transferring to the people a branch of his Majesty's prerogative, and giving them an opportunity of declaring war for themselves. They assert, that the people are unanimous in their ardour for vengeance, and propose an infallible experiment to prove that unanimity. Suppose the desire as general as is pretended, are all desires proper to be gratified? Is an inflamed populace to give laws to the legislature? The people, I know, in imitation of some of their betters, have divided prizes, counted on head-money and cantoned out the provinces of America. Conquest, triumph, and possession, are pleasing sounds, and victory and war are now vulgarly taken for terms of the same signification. But experiments are best confuted by experiments, and therefore I shall take the liberty of proposing a method by which the inclinations of our countrymen may be discovered. Let any gentleman of this House walk through the streets of London, and ask every man he meets, whether he is willing to abate his expences, or to pay greater taxes than he does at present. I believe I need not say what answer he will receive, or how wonderful an unanimity he will find in all ages, ranks, and parties. He will see the ardour raised by the talk of depredations, injuries, conquests, and vengeance, very sensibly abated by the mention of taxes. The story of captain Jenkins* will then be told in vain, and though it has been affirmed that it will raise us volunteers, it will raise, I

* See the Note to p. 637.

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fear, but little money. Upon the whole, I believe, most gentlemen that attentively reflect on all the consequences of passing this Bill, will find the disadvantages outweigh the benefits, and with me determine in the negative.

Mr. *Pulteney.* Sir, after all that gentlemen have said against this Bill, I must insist upon it that the most material part of my Argument for the Bill has not been so much as touched upon by them; and that is with regard to the trade carried on by France in the Spanish Galleons, which is a notorious breach of all treaties.

The question being put, on a division the Bill was thrown out. Noes, 106, Yeas 75.

Mr. Speaker Onslow's Speech to the King on presenting the Money Bills.] May 20. The King came to the House of Peers for the purpose of putting an end to the session. The Commons being sent for, they appeared. On presenting the Bills for the royal assent,

Mr. Speaker *Onslow* addressed his Majesty as follows:*

"Most Gracious Sovereign;

"Your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in Parliament assembled, attend your Majesty with several Bills; and with one amongst the rest for your royal assent concerning the Supplies granted for the public service of the year, allowing 3,750,000*l.* for the maintenance of your fleets, armies, and discharging a million of the National Debt, and other purposes.

"Your Commons at first made provision but for 10,000 seamen, they being sufficient for the common service; but having since been called on, by the sufferings and grievances of your Majesty's subjects, to strengthen your hands, to defend your rights, and do them justice against the lawless power of the Spanish nation in the seas of America; where your Majesty's subjects have, by nature, and unrestrained by compact, an equal right with them, and are not to be subject to any obstruction or molestation whatsoever in their passage over those free and open seas; they have readily granted your Majesty 10,000 more. To suffer the Spaniards to rummage our ships, is to give them a right to the Sovereignty of those Seas, as it was always deemed by Great Britain; and was never allowed by any of your Majesty's predecessors.

"These Depredations deserved the consideration of your Commons; and these outrages (if continued) will deserve your resentment. To their plunder they have added insults; and to their insults, cruelties: insults the more sensibly felt, as they come from a people whose power we always deemed inferior; and whose strength we ever subdued when tried. With these sentiments your Commons applied to the Father of their Country for redress; and received such an Answer as the Father of their Country should give; for which your faithful Commons make their grateful and dutiful acknowledgments. Their application on this occasion was on behalf of their trade, which is the life and spirit of this nation; resting persuaded, that by your interposition, you will be able to obtain justice for past injuries, as well as future security of your trading subjects, for the sake of the dignity of your Majesty's Imperial Crown, and the honour of the British nation; which they are sensible never were, nor ever can be, more secure than under your Majesty's royal protection.

"Since your Majesty's paternal care has preserved this nation under many difficulties from the calamities of war, and every good man hopes you will be able to accomplish the great work before you without it; yet if the lot be so, that no satisfaction for our losses and sufferings can be had, nor security for the future, nor the credit of the British nation supported but by force of arms; there is not one man in the nation whose heart and hands would not be willing to support your Majesty therein, as your faithful Commons are willing and ready to do.

"To these necessary ends, they desire your Majesty's royal acceptation of the supplies which they have granted for that purpose; which, with several other Bills, Sir, upon the table, are ready for the royal assent, and are for the benefit of the public; particularly that which restrains the privilege of Parliament; a work begun before, but now complete; and which will put an end to a practice that tended to the reproach and dishonour of Parliament."

*The King's Speech at the Close of the Session.**] His Majesty having given his

* From the Whitehall Evening Post.

* "The attention of the public was so totally engrossed by the great question between

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assent to the said Bills, made the following Speech to both Houses:

"My Lords and Gentlemen;

"It is with great satisfaction I observe, that the temper and moderation, which I recommended to you at the opening of this Session, have been so well preserved through the general course of your proceedings; and that from a due regard to me, and my honour, you have avoided all unnecessary occasions of heats, and animosities, and made the interest of your

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Spain and England, that very little was paid to other affairs, though some of them were of importance, which happened in the course of this session. Two millions were granted to his Majesty, for the service of the current year, and for paying to the governor and company of the bank of England one million for redeeming an annuity of 40,000*l.* payable to them. Another act of great importance, both for its conveniency and dignity, passed this session. It was, for building a bridge across the river Thames, from the Woolstaple, Westminster, to the opposite shore in Surry; which after various difficulties has been since executed, greatly to the honour of the commissioners. Some farther regulations were likewise made with relation to the drinking spirituous liquors; and those already made being found ineffectual, and having been productive of many perjuries, a power had been granted to retail spirituous liquors with licences. But this had rather increased than diminished the disorder complained of; and an act passed this session, by which the occupiers of houses in which spirituous liquors were illegally sold, were made liable to a penalty." Tindal.

"The remainder of the year was passed in attempts to adjust the differences between Spain and England.

"There never was any negotiation which commenced with more unfavourable appearances, and was attended with greater difficulties. These difficulties principally arose from the punctilious and inflexible spirit of the Spanish court, the high expectations of the English nation, the discordant resolutions of the Lords and Commons, and the disputes between the crown of Spain and the South Sea Company.

"The first difficulty arose from the Spanish Court, tremblingly alive to all discussions on points which related to their American possessions, for although Philip appeared well inclined to give full satisfaction for past depredations, and full security for freedom of navigation, which did not promote the illicit commerce, carried on with his subjects in America, or which did not infringe on his sovereignty; yet he could not be prevailed on to grant any specific proposition for not *searching* ships, either in the open seas, or hovering on their coasts, under the pretence of trading to and from the British Plantations.

"The difficulty of managing so capricious a court, was increased by the high expectations of the English nation. The people, fired with enthusiasm, and inflamed by exaggerated accounts of Spanish Depredations, wildly and imperiously clamoured for redress. They laid their demands of reparation at a very high rate; they required ample satisfaction for past injuries, and full security against future depredations, which security was made to consist in an explicit renunciation of the right of *searching* ships, in all places except the Spanish ports and seas.

"Walpole, well aware of the inflexibility of the Spanish court on this delicate question, had contrived to word the resolutions, which passed the Commons, in such a manner as to omit the mention of the word *Search*. He had avoided, with great prudence, all specific claims, and confined the expressions of the House to general topics. But this design had been frustrated by the Resolutions of the Lords, which reduced the question to a specific proposition, and positively declared the illegality of *searching* English vessels on the open seas, and trading to and from the different parts of the British dominions. These discordant Resolutions naturally produced numerous embarrassments, and would have occasioned insuperable obstructions, had not the minister resolved to adhere to the decision of the Commons.

"But the negotiation encountered the greatest difficulty from the disputes of the crown of Spain with the South Sea Company. Before the Assiento treaty, a very advantageous, though contraband trade, was carried on from Jamaica to the Spanish colonies. The Spanish governors connived at the introduction of negroes, and the importation of English manufactures. The profit of this traffic was certain and expeditious, and was still greater, because it was not attended with the payment of any duties to the king of Spain, or other incumbrances.

"But this branch of traffic was evidently diminished by the Assiento treaty. It then became the interest of Spain, for the sake of the duties, as well as of the South Sea Company, who wished to monopolize the trade to the Spanish West Indies, to stop this commercial intercourse, and many remonstrances were made for that purpose to government, as well as to the Spanish court, by the directors, who considered all British subjects, trading to the Spanish settlements, as interlopers upon their province. Hence disputes frequently arose between the South Sea Company, and the traders of Jamaica; and the directors, by their remonstrances, often occasioned the seizure and confiscation of vessels which were taken in the act of carrying on an illicit trade, or with illicit goods on board. The court of Spain made a merit with the British government, of having endeavoured to check a commerce

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country the principal object of your care and consideration.

"Gentlemen of the House of Commons;

"I return you my Thanks for the Supplies which you have so cheerfully and effectually raised for the service of the current year: the provision you have made to answer all emergencies, which may become necessary, in vindication of the honour and interest of my crown and people, is a great proof of your zeal and concern for the welfare and prosperity of the na-

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which was prejudicial to so great a public company; at the same time the British traders urged the most violent complaints against the guarda costas, for making these seizures, which they termed illegal and unjust.

"The Assiento treaty stipulated the payment of certain duties for the introduction of negroes, and other articles of trade. These had been always paid to the Spanish officers, according to the rate of exchange between Great Britain and Spain, and received without complaint. But as Spain had several years before this period, given currency to another species of dollars, a claim was now made of the difference between the two species of dollars, ever since the new regulation, under the denomination of arrears. In addition to this, another demand was made, for the fourth of the profits acquired by the annual ship, which was due to the king of Spain. On the other side, the company claimed reparation for the damages sustained by the seizure of their effects in 1718 and 1727, before war had been declared between England and Spain.

"In the midst of these difficulties, the minister exerted all his influence, at home and abroad, to settle the differences in a satisfactory manner, or to refer the settlement to the decision of plenipotentiaries, by which means farther time would be obtained to prevent the commencement of hostilities. A double negotiation was opened, between the ministers and Geraldino in London, and between Keene and la Quadra at Madrid, wich had no immediate communication with each other. Walpole wholly influenced the negotiation at London; but he could only modify that which was carrying on at Madrid.

"Geraldino having delivered a message, importing that his master was inclined to enter into measures for conciliating past differences, and agreeing upon a method for preventing them in future; an account was stated of the demands on each side, which, after some difficulties, was reduced to a balance of 140,000*l.* in favour of England, and sent to Mr. Keene to be ratified. But when this agreement was transmitted, the court of Madrid refused to ratify it, declaring that Geraldino had surpassed his powers.

"Foiled in this attempt, the minister modified and tempered the violent orders sent from the duke of Newcastle to Mr. Keene, and exhorted him to use every effort with de la Quadra, and to represent the necessity of adjusting the differences amicably.

"This pacific spirit fortunately prevailed in the counsels of England; and due consideration was paid to the honour, jealousy, and even to the prejudices of Spain. Keene seconded the pacific efforts of the minister with great address and ability, and finally overcame the dilatoriness, the punctilios, and the repugnance of the Spanish Court.

"A Convention was accordingly settled on the following basis; 'That within six weeks, 'two plenipotentiaries should meet at Madrid, 'to regulate the respective pretensions of the 'two Crowns, with relation to the trade and 'navigation in America and Europe, and to the 'limits of Florida and Carolina, as well as the 'other points which remained to be adjusted, 'according to former treaties. That the ple-'nipotentiaries should finish their conferences 'within eight months: that in the mean time, 'no progress should be made in the fortifica-'tions of Florida and Carolina. That his Ca-'tholic Majesty should, within four months 'from the day of exchanging the ratifications, 'pay to the king of Great Britain, the sum of '95,000*l.* as a balance due to Great Britain, 'after deduction made of the demands of Spain. 'That this sum should be employed for the sa-'tisfaction, discharge, and payment of the 'claims of British subjects upon the Crown of 'Spain. That this reciprocal discharge, how-'ever, should not extend or relate to the ac-'counts and differences which subsisted be-'tween the Crown of Spain and the Assiento 'Company, nor to any private contracts be-'tween either of the two Crowns, or their mi-'nisters, with the subjects of the other; or be-'tween the subjects of each nation respec-'tively.'

"In all his Conferences with Mr. Keene, de la Quadra had insisted, that 68,000*l.* was due to his master from the South Sea Company; and had declared that the convention would not be ratified, unless that money was paid. Keene represented, that the interests of the Company, and those of England, were distinct considerations; and that the convention was a settlement of accounts between the two Nations, the other, a private transaction between the king of Spain and the Company. He said, that if it was proved that 68,000*l.* was owing, the money should be paid. This la Quadra considered as a positive promise, that the 68,000*l.* should be liquidated before the execution of the Articles of the Convention. Accordingly, at the very moment when the Convention was to be ratified, the Spanish minister delivered to Keene, a declaration or protest, declaring, in due form, that the king of Spain reserved to himself the right of suspending the Assiento treaty, should the Company not pay within a short time the 68,000*l.* Under the validity and force of this protest, and that,

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tion; and shall be employed by me in such a manner, as may best conduce to those ends and purposes, for which you have so readily consented to this extraordinary expence.

"My Lords and Gentlemen;

"Agreeably to what hath appeared to be the concurrent opinion of both Houses of Parliament, I have given orders to repeat, in the strongest and most pressing manner, my instances at the Court of Spain, for obtaining satisfaction for the many injuries and losses sustained by my trading subjects in America, as well as an effectual security of their rights for the future; and I hope, from the justice and equity of the Catholic King, to procure such satisfaction and security, as may preserve the peace, and establish a free and uninterrupted exercise of navigation and commerce, mutually between the subjects of both Crowns, pursuant to our treaties, and the law of nations."

upon the firm supposition that it would not be eluded on any motive or pretext, he was ready to sign the Convention. Keene, seeing the obstinacy of the Spanish Court, knowing the anxiety of the British minister to receive the ratification before the meeting of Parliament, and aware, that unless he accepted the protest, the negociation would be instantly broken off, consented to receive it, though without admitting the fact it assumed, and simply to be transmitted to the consideration of the British cabinet. Clogged with this obstruction, the Convention was finally signed at Madrid, and transmitted by a courier to London, who did not arrive till the 15th of January.

"The public mind was agitated to a degree of frenzy, and their expectations to a pitch which no reasonable concession could gratify. Besides punishment inflicted on the Spanish captains, and others who had committed depredations, they required, that the Spaniards should positively disclaim all right to search British ships in the American Seas, and disavow their right to Georgia, and a part of South Carolina; that they should pay 340,000*l.* as a compensation for the captures and confiscations, to discharge the balance of the Account, due to the South Sea Company, for the effects confiscated, which amounted to no less a sum than a million sterling; and it was said, that if the nation should not receive satisfaction on these particulars, no justice was procured, and no security obtained. In the midst of these clamours, every eye was directed to the meeting of Parliament, which was to assemble on the 16th of January. But the public were disappointed: on that day the Parliament was farther prorogued until the 1st of February, and it was known that the difficulty in adjusting the disputes with Spain had been the cause of this prorogation." Coxe's Memoirs of sir R. Walpole.

FIFTH SESSION
OF THE
EIGHTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] Feb. 1, 1739. The King came to the House of Lords, and opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen,

"I have, upon all occasions, declared, how sensibly I have been affected with the many hardships and injuries sustained by my trading subjects in America. I have the honour of my crown, and the true interest of my people too much at heart, to see either of them suffer any prejudice or diminution, without pursuing the most proper and advantageous methods for their real security and preservation.

"These considerations alone were sufficient to incite me to exert my utmost power, in vindicating and protecting our undoubted rights and privileges of navigation and commerce; and nothing could add to my own zeal in so just a cause, but the due regard I always have to the petitions and complaints of my subjects, and the advice of my Parliament. The wisdom and prudence of your resolutions, upon this great and national concern, determined me to begin with the more moderate measures, and to try, once more, what effect and influence my friendly endeavours and pressing instances would have upon the court of Spain towards obtaining that satisfaction and security, which we were entitled to demand and expect; and your assurances to support me in all events, enabled me to proceed with proper weight and authority.

"Thus supported by the concurrent advice of both Houses of Parliament, I lost no time in making preparations to do myself and my people justice, if the conduct of the court of Spain had laid us under that necessity; and at the same time I did, in the strongest manner, repeat my instances for obtaining such justice and reparation for the many injuries and losses already sustained, and such an effectual security for the future, as might prevent the consequences of an open rupture.

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"It is now a great satisfaction to me, that I am able to acquaint you, that the measures I have pursued have had so good an effect, that a Convention is concluded and ratified between me and the king of Spain; whereby, upon consideration had of the demands on both sides, that Prince hath obliged himself to make reparation to my subjects for their losses, by a certain stipulated payment; and plenipotentiaries are therein named and appointed, for regulating, within a limited time, all those grievances and abuses which have hitherto interrupted our commerce and navigation in the American seas, and for settling all matters in dispute in such a manner as may, for the future, prevent and remove all new causes and pretences of complaint, by a strict observance of our mutual treaties, and a just regard to the rights and privileges belonging to each other. I will order the Convention, and the Separate Articles, to be laid before you.

"It hath been my principal care, to make use of the confidence you reposed in me in this critical and doubtful conjuncture, with no other view but the general and lasting benefit of my kingdoms; and, if all the ends which are to be hoped for, even from successful arms, can be attained without plunging the nation into a war, it must be thought, by all reasonable and unprejudiced persons, the most desirable event.

"Gentlemen of the House of Commons,

"I have ordered the proper Estimates to be prepared, and laid before you, for the service of the current year. I heartily wish that the posture of affairs would have permitted me to retrench the public expences, for which I am obliged to demand the present supplies; and I make no doubt but your experienced zeal and affection for me and my government, and the proper concern you have always shewn for the public good, will induce you to grant me such supplies as you shall find necessary for the honour and security of me and my kingdoms.

"My Lords, and Gentlemen,

"I cannot but earnestly recommend it to you, not to suffer any prejudices or animosities to have a share in your deliberations at this important conjuncture; which seems, in a particular manner, to call upon you to unite in carrying on such measures as will be most conducive to the true interest and advantage of my people."

Debate in the Lords on the Address of Thanks.] His Majesty having retired, The Duke of *Portland* stood up and spoke as follows:*

My Lords; his Majesty has so fully informed your lordships, in the gracious Speech he made from the throne, of the success that has attended the prudent and

* From the MS. of Archbishop Secker.

Feb. 1. King's Speech.

Duke of Portland and lord Hobart moved for an Address.

Gower. The King's Speech is the speech of the minister. Plenipotentiaries are now appointed, because commissaries would have sounded ill. In the treaty of Seville all former treaties were confirmed, ample restitution stipulated, but the particulars were to be determined by commissaries within a year. They met; their powers were renewed for three years; then the ministers took up the matter, and it became a paper war between one ministry and the other; and in that war they got the better, but we should have got the better in another. Our ministers want spirit to make war and skill to make peace. If we must have a war the sooner the better. Our merchants will not venture in this uncertain state. Take the first paragraph and the last of the motion, and leave out the three intermediate, which may be construed a sanction.

Newcastle. The motion is drawn up with unusual and unprecedented caution: no appearance of approbation in it. The treaty of Seville was delivered in, the first day of the session, and without a particular consideration of it the House returned thanks. The present treaty is not delivered in, to avoid seeming to approve it. I never saw a motion before this, that could not be construed into some approbation, though it was always declared it was not intended to preclude examination. The speeches from the throne are, and ever will be, the speeches of the minister.

Bedford.

Scarborough. I never saw an Address in terms less binding.

Chesterfield. The custom of echoing back the words of the Crown is not 20 years old. Reparation to our merchants is said to be provided for: but what reparation to those who did not dare to fit out ships, or who have been ruined by insurance: what reparation for the expences of the nation? A few such reparations would ruin us. The point of Search is not settled. Plenipotentiares indeed are appointed. They have a better name than commissaries, with better salaries perhaps, and the negociation will not be the shorter for it. But what are they to do in the next six months, that they could not have done in the last six. The thing referred to them should have been just the thing which is not, the reparation. But instead of that, they are to treat away our treaties. If there be any search there can be no trade. Every ship must have some-

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pacific measures, which have been taken on the part of Great Britain since our last meeting, that I shall trouble your lordships with but a very few words.—The motives that have determined his Majesty to lay the foundation of an advantageous and honourable peace, rather than risk the consequences of an expensive and hazardous war, will be best understood by taking a view of the nature of our differences with Spain, the dispositions of our neighbours, and our own situation. Our differences with Spain, my Lords, relate entirely to trade: they are not founded on her aspiring to universal monarchy, as in the days of queen Elizabeth; they are not founded on the rights of a doubtful succession, as in the days of queen Anne; nor on the ambitious encroachments upon the property and quiet of our allies, as in the reign of his late Majesty king George 1. Were any of these the case betwixt us and Spain, we could fall on no way to bring her to reason, but by reducing the power that supported her ambition. In this, we might, as formerly, be assisted by the councils and arms of powerful allies, and we might have reason to expect the same success. But our differences at present are founded entirely on affairs of commerce, to which nothing can be more fatal, nothing more destructive than a I had almost said, my Lords, than a successful war, and nothing more beneficial than a safe and honourable peace. With what gratitude then ought we to regard a prince distinguished by military virtue, who knows no glory that is separate from the true interest of his subjects, and disregards all fame, that is not acquired by those means that will transmit his name to posterity, as the Father of his Country! This, my Lords, is the title which his Majesty has to the acknowledgments of this House and Parliament, and to the acknowledgments of all the nation on this occasion.

As to the disposition of our neighbours, my Lords, I own that I am far from thinking, that it would be favourable to Great Britain, if we had gone to war before we had used our utmost efforts to obtain peace: Such a conduct in our administration would have sounded an alarm to all Europe, that Great Britain was resolved to obtain, by the terror of her arms, what she had no right to expect from the sense of her treaties. We might then have seen as formidable a confederacy against the power of Great Britain, as we saw not

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thing aboard which the Spaniards will reckon prohibited. Logwood and Cocoa grow in Jamaica. Pieces of eight are the current coin of our colonies. The best way to have this Convention approved would be to approve it without considering it. No one thing which the king said was done by the treaty of Seville was actually done in six years after; nay, is done yet. Were it on an occasion of less consequence such an Address might be connived at.

Cholmondeley.

Onslow.

Carteret. It will be interpreted without doors as an approbation, and that will cast a damp. What minister shall presume to treat upon a matter determined by so many treaties. It will be dismembering you: and the people of England will not be dismembered but by the sword. Are plenipotentiaries to determine whether we shall go to our own colonies safe and return safe? The Cardinal would not suffer a minister to come into the tenth antichamber that should talk of searching French ships. Ask all the young nobility that have travelled: have not they observed that the honour of the English nation hath suffered abroad. The Court of Spain think you dare not attack them. Shew them that you dare, and all is over.

Hervey. All who have spoke against the Address have spoken against things approved by Parliament, or not before the Parliament. If you had treated first upon future security and had not agreed about that, you would have lost the reparation. And if the reparation be not adequate, would it have been reasonable to have demanded 50 millions of France at the Treaty of Utrecht. Think if we were Spaniards how we should understand things. If we object against a paper war, we may also object against a paper peace, and what other can there be?

Bathurst. I will move, that what the commissaries have done may be laid before the House. There it will appear that the Spaniards have claimed the Sovereignty of the Sea. And I will desire that the Memorials and Answers since the last Address may be laid before the House. Plenipotentiaries may do harm, which commissaries cannot. We are not to make satisfaction for the ships taken from the Spaniards.

Newcastle. We should do nothing to slur the peace till it is examined. The prepossession should be in favour of it. The Cardinal hath suffered ships to be taken by the Spaniards, and hath never claimed them. The Spaniards have a right by treaty to the ships taken in Sicily.

Argyle. This motion may be admitted, without approving, and I do not by agreeing to it mean to approve one syllable of the Convention.

I believe no Division.

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many years ago against the ambition of France; and at the same time we must have been left without one ally, or one confederate; happy if we could prevail with those, who are now our best friends, to remain neutral. The French, according to the representation of our own merchants, have already cut us out of some valuable branches of the American commerce, and watch but an opportunity to strip us of others. Such an opportunity, my Lords, they never can have, while we are at peace with Spain: But a war would soon put an opportunity into her hand, by disjoining the interests of the crowns of Spain and Great Britain, and giving France the means of injuring both, by siding with either, as she finds it most conducive to her own advantage. So that whoever understands the interests of Great Britain as a trading people, and reflects on the vast load of debts which the carrying on even a successful war has laid her under, must be fully convinced that scarce any peace can be so bad, as, at this juncture, not to be preferable to a war. I say, my Lords, at this juncture, when Great Britain enjoys more trade, more peace, and more plenty, than she was ever known to do, under any of his Majesty's predecessors. To hazard all these advantages, by wantonly plunging the nation into a destructive war, would be to act inconsistent with that paternal regard which his Majesty has at all times expressed for the welfare of his subjects; in short, my Lords, it would be a measure neither becoming his Majesty to take, nor your lordships to approve.

But, my Lords, abstracted from considerations of a domestic nature, give me leave to say, that it must have been highly impolitic, on account of the disposition of affairs abroad, and the unsettled state of Europe. The same system of power no longer prevails in Europe, as when the glorious confederacy was formed to reduce the ambition of France; the emperor cannot now send his generals out at the head of those fine armies, that, in concert with us, acted so noble a part for the common rights of Europe. His late unsuccessful campaigns against the Turks, the bad state of his finances, and the divisions which subsist amongst the princes of the empire, give him every thing to fear, if Spain should, upon any provocation by our acting upon the offensive, be furnished with a pretext for calling in her allies to her assistance. In this case, my Lords, we might be so embarrassed, as not, to have it in our power to act with that decisive weight, which every good Englishman would wish to see, if the ambition of France should prompt her to take advantage of the present low circumstances of the empire.

The Dutch, my Lords, a people always inspired with the love of liberty, are now no longer able to send out those formidable navies, which once disputed the empire of the seas with England herself. She is no longer able to keep up those troops that checked the progress of the greatness of Spain, and reduced the power of France. They labour under a vast load of debt, which was contracted by supporting a just and necessary war, and have no other way of retrieving their affairs but by cultivating the arts of peace. Thus, my Lords, our two best and most natural allies are, in a manner, incapacitated from affording us almost any assistance in case we should enter into a war, and thereby Great Britain must singly sustain all the burden, though other nations may, perhaps, in the event, reap the profits. Besides who can pretend to say to war, 'Thus far, and no farther, shalt thou stretch thy fury, here shall thy bounds be fixt?' We are not sure, my Lords, on what element, and in what manner, a war breaking out at this present juncture may be managed. It may be managed in a manner, my Lords, no way to the advantage of England: in a manner, my Lords, that may render her navy, her best and most natural strength, quite useless for the purposes that it is designed to serve: It may be managed, my Lords, in a manner that may cost Great Britain millions, where it does not cost the other contending power thousands.

It has, my Lords, been rightly observed, that the advantages which Great Britain acquires on the continent prove, in the event, only beneficial to her neighbours. When we gain a battle on the continent, we gain it at the expence of our own blood and treasure; and if we make a conquest we find it almost impracticable to preserve it, for it proves either a perpetual source of animosities and jealousies betwixt us and our neighbours, or the expence of maintaining it is much greater than the advantage of possessing it. From this short view, my Lords, of the interests of this nation, and what may farther occur to your lordships, I cannot doubt you are sensible of the wisdom of his Majesty's measures; and that you perceive how

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dangerous an expedient it had been, if, in order to procure satisfaction for our wrongs, we had entered upon immediate action, and put that satisfaction upon the event of a doubtful war, without first endeavouring to obtain it by a safe and honourable peace: For these reasons, my Lords, I shall conclude with making this motion to your lordships:

1. "That an humble Address should be presented by this House to his Majesty, to return his Majesty our humble thanks for his most gracious speech from the throne.

2. "To declare, that, amongst the many convincing proofs, which his Majesty has given of his paternal and unwearied care of the rights of his people, nothing can fill our hearts with more grateful sentiments, than that sincere and affectionate concern, which he has so often declared, for the many hardships and injuries sustained by his trading subjects in America. That the honour of his Majesty's crown, and the true interest of his people are, and ever will be inseparable: and that as his Majesty has, on all occasions, demonstrated to the world, that he has both equally at heart, it was impossible for us, not to have the firmest dependence on his zeal and vigilance, for their real security and preservation.

3. "To declare, that the gracious regard which his Majesty is pleased to express, for the resolutions and advice of his parliament, is a great instance of his royal goodness: and that though his Majesty's constant desire, out of tenderness to his people, to avoid involving these kingdoms in the manifold inconveniencies of war, must have inclined him to approve the beginning with more moderate measures; yet we never entertained the least doubt, but that the true greatness and fortitude, which inspired his royal breast, would have induced him to exert his utmost power, in vindicating and protecting our undoubted privileges of navigation and commerce; and in doing justice to himself and his subjects, if the conduct of the court of Spain had make such measures necessary.

4. "To beg leave, on this occasion, to offer to his Majesty our unfeigned thanks for his great goodness and condescension, in acquainting us from the throne, that a Convention was concluded and ratified, between his Majesty and the king of Spain, whereby reparation was agreed to be made to his subjects for their losses, by a certain stipulated payment; that plenipotentiaries were appointed for regulating, within a limited time, all those grievances and abuses which had hitherto interrupted our commerce and navigation in the American seas; and that his Majesty would order the Convention and Separate Articles to be laid before us.

5. "To declare, that we should fall short of those warm impressions of gratitude, which we feel in ourselves, as well as be wanting in our duty, if we did not return his Majesty our most thankful acknowledgments for his royal care, in making use of the confidence reposed in him, with no other view, but the general and lasting benefit of his kingdoms. That reparation for past injuries and losses, and effectual security for the future, founded in justice, and warranted by treaties, had been the great views of his Majesty, and his parliament, in that national and important affair; and if those purposes could be attained, without plunging the nation into a war, it must give the truest satisfaction to all his faithful subjects, who could not but be as desirous to preserve the peace, as they were able and ready to defend and vindicate their rights, against the encroachments of all aggressors.

6. "And lastly, to declare, that we are deeply sensible how unbecoming and pernicious it would be, at any time, to suffer either prejudices or animosities to mix themselves with parliamentary deliberations; and that his Majesty's gracious recommendation to us, particularly to avoid them at this important conjuncture, cannot fail to awaken in us a more than ordinary caution on that head. That Great Britain hath but one common interest, consisting in the security of his Majesty's person and government, and the welfare and happiness of his people; and that when his Majesty is pleased to exhort us to unanimity, it is only calling upon us to unite for our own preservation: therefore, to beseech his Majesty, to accept the strongest and most affectionate assurances, that we will zealously and cheerfully concur in all such measures, as shall be the most conducive to those great and desirable ends."

Lord *Hobart*:

My Lords; though I have never yet troubled your lordships with my sentiments on any public occasion, yet I think the happy prospect of affairs given us, in his Majesty's speech from the throne, affords me the most favourable opportunity

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of thus publicly expressing my satisfaction with his Majesty's measures. Therefore, my Lords, I humbly second the motion the noble duke has made.

Lord *Gower:*

My Lords; though I have all the regard and duty for his Majesty that every good subject ought to entertain, yet I own that I cannot prevail with myself so far as to look upon what we just now heard delivered from the throne, in any other light than as the dictates of a minister. As such, my Lords, I must beg leave to consider and examine it, and I shall endeavour to do it with that freedom and candour, with which every Lord in this House ought to express himself upon matters of so great importance to the public.

To do this, my Lords, with more perspicuity, it is necessary that I should review some of the transactions that passed last session upon the subject in this House. This is the more proper upon the present occasion, as they seem to have been either forgot, neglected, or not understood in another place. Your lordships may remember that last session, after the merchants had fully proved their allegations contained in their petition to his Majesty, your lordships came to some Resolutions; these Resolutions, my Lords, I hope are now very proper for our consideration, and hope your lordships will allow your clerk to read them [Here the clerk read the Resolutions, for which see p. 744.]

The day, my Lords, when you came to these Resolutions, was the most joyful day I ever saw in the course of my life: I then observed that spirit revive among your lordships, which gives weight to all our councils, and dignity to all our resolutions; nor, I think, did any Lord object to the most material resolution, as it now stands; which is the first; a Resolution, my Lords, that is essential to the very being of our trade, as trade is essential to the very being of this nation. By that resolution, my Lords, we see that your lordships were of opinion, that a free and uninterrupted navigation to and from every place of his Majesty's dominions, was the right of this nation; your lordships were of opinion, that such navigation ought, upon no account whatsoever, to be interrupted; you likewise found, that the Spaniards have interrupted it upon many occasions, and that all endeavours to procure satisfaction had been useless.

These Resolutions, my Lords, spoke the sense of this House upon that great occasion; and the sense of this House, give me leave to say, ought always to have great weight; nay, in this case ought to determine the sense of those who consult in another place: at least, my Lords, our Resolutions, while they stand in force upon our Journals, are rules to ourselves, and we can approve or disapprove of no measure, but so far as that measure is consistent with them. Now, my Lords, how does it appear to your lordships, that they have either been understood or regarded in another place? Can, my Lords, any man in the kingdom say, from the speech we have just now heard, that one tittle, one iota of what appears to have been the sense of this House at that time, has been performed? does it not confirm, my Lords, a very general observation without doors, that we have a ministry which has neither courage to make war, nor skill to make peace? we require a positive and express security for our navigation; we require ample satisfaction for the injuries the subjects of this kingdom have suffered, and we require satisfaction for the wounds that have been given to the honour of this nation. How are these just demands answered by the minister? (for your lordships will please to observe, that I all along suppose, that the Speech we have now heard comes from the minister.) We are told, my Lords, that a convention is made with Spain, that she is to pay us a stipulated sum for the injuries our merchants have received, and that the decision of every thing else is left to plenipotentiaries. But at the same time we are neither told what this convention is, what the stipulated sum is, nor what particular differences betwixt the kingdoms, these plenipotentiaries have to regulate. Is all this any satisfaction to this House? Is it any satisfaction to this nation? yet, my Lords, we are as it were called upon to approve of this manner of proceeding: we are called upon to approve of measures that have been concerted and carried on with the knowledge and approbation, I believe, of few Lords in this House: a measure which, though of the greatest importance to the future well-being of this nation, has been ratified at a time when, my Lords, he who is, in many respects, besides that of his birth, the second person of this kingdom, has no access to his Majesty's person! when the heir of the crown has no more share in his Majesty's councils, than any Lord who sits on the lowest bench in this House!

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I have the honour, my Lords, to sit on the lowest bench in this House, and I am sure I have not the honour to have the smallest share in his Majesty's councils; yet, my Lords, that royal personage has no more share in them than I have. This I have mentioned, to shew your lordships how cautious we ought to be in giving the smallest degree of sanction to such measures, and to such councils. But, my Lords, were not this the case, it is very evident that the conduct of the ministry, since our last meeting in this place, as it appears even from the speech we have now heard, makes it highly improper for us to agree to the motion made by the noble duke.

If the sum stipulated by this Convention is no more than what it is generally given out to be, it bears no proportion to the injuries our merchants have sustained. If the proceedings of the plenipotentiaries are to be on the foot of treaties now in force, I will be bold to say, my Lords, that no differences can subsist betwixt Spain and us, but those plenipotentiaries may create; for the treaties betwixt us are strong, clear, and express, impossible, my Lords, to be mended by any subsequent negociation. So that, my Lords, this Convention is probably, like other late masterpieces of our negociating policy, only an expedient to gain time; and though we cannot tell what its particular terms are, yet we may venture to tell what they are not. No Lord here, who has not seen this Convention, as I own I have not, can say that it is such as puts the future navigation of this kingdom on a proper foot to free our merchants from all apprehensions of being insulted, preyed upon, and murdered by their injurious neighbours. He cannot affirm that the first, or any stipulation in it, is answerable to the first Resolution that this House came to last year; I mean an exemption from all stop or search, on any account whatsoever, to those vessels who are in a lawful way of trade upon the open seas. Neither can he tell us, my Lords, that the sum stipulated is adequate to what our merchants have suffered by the Spanish depredations; nor that an ample satisfaction is made for the insults and indignities done to his Majesty and the nation: and if Lords are in the dark as to all these points, on what can they found their approbation of the Address proposed by the noble duke?

On the other hand, my Lords, any lord, though he has not seen the Convention, yet if he has heard the speech just now delivered from the throne, may venture to say what this Convention is not. He may venture to say, that it is not a definitive treaty, whereby the rights of navigation and commerce, which this House found this nation was justly entitled to, are secured against all future violations, and put beyond the possibility of ever afterwards being infringed in time of peace. My Lords, if it is not such a definitive treaty, if it is not to be attended with these consequences, your lordships' advice, which was laid before his Majesty last year, has been neglected, it has been despised. If this is the case, my Lords, as in all appearance it is, this is not a time for us to come to the Resolution proposed by the noble duke who made the motion; this is not a time for us to make compliments to the crown, which may be the more dangerous, as they may mislead his Majesty into the belief that this measure is agreeable to the sense of the people in general, because agreeable to the sense of this House. This, I say, my Lords, would be a fatal compliment, it would tend to give his Majesty such favourable impressions of the abilities of his ministers, as again to entrust them with the management of these great affairs, upon which the peace and welfare of this kingdom depend; both which have already suffered *so* greatly in their hands. Such a proceeding might possess his Majesty and all the world, with an opinion that we are weak, inconsistent, and inconsiderate in our Resolutions; by our coming in one session to Resolutions, and presenting them to his Majesty as the sense of this House; and next session approving of measures in which not only no regard has been had to these Resolutions, but that are absolutely inconsistent with them.

But, my Lords, though I am entirely against our inserting any words in our Address, that may give his Majesty and the nation reason to think that we are satisfied with the measures pursued since last session, yet I am not at all against any expressions, however strong, that may evidence our zeal for his Majesty's service, and our affection to his person. But these, give me leave to say, are best consulted, by giving his Majesty to understand, from our silence, as to that part of the speech that concerns the Convention, that we are by no means satisfied with such a measure;

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that we are resolved not to be satisfied with any thing less than an ample and express renunciation from Spain, of all her claims upon the liberty of our navigation, of all her claims to any part of our territories, and of her pretences to a sovereignty in the American seas.

I am far, my Lords, from entering now upon any disquisition into the terms which this Convention may contain; I have already professed myself entirely ignorant of them, and I wish they may prove in the event honourable to the nation. The only consideration that now lies before us is, how far, by what appears from the speech we have now heard, we have any grounds whereon we can found an approbation of the measures taken by the ministry, with regard to Spain, since the last session. And though, my Lords, I have given my opinion as to that matter, yet I have chiefly confined my arguments to the inconsistency which appears betwixt the resolutions now read, and our present situation with Spain, so far as it can be gathered from his Majesty's speech.

I shall now take the liberty to trouble your lordships with some other arguments arising from other circumstances. The parliament, towards the close of last session, thought proper to strengthen his Majesty's hands, by voting a considerable addition to the sea-forces. In consequence of this resolution, preparations were made, the trade of the nation was laid under very great disadvantages and encumbrances, and the nation itself put to the expence of upwards of 500,000*l.* All this, my Lords, was cheerfully borne; our seamen were glad of an opportunity to revenge their injuries, our merchants were pleased with the prospect of repairing their losses, and the nation in general was fond of an occasion to vindicate her honour. The least, my Lords, that could have been expected from such mighty preparations, from such happy dispositions, was reparation of past, and security from future injuries; or if we failed in that, to have known the worst, to have fallen like men, with our swords in our hands, and no longer to have continued in this political purgatory betwixt peace and war, which gives us every thing to fear, which leaves us nothing to hope. But, my Lords, instead of being put out of uncertainty, we are put into greater uncertainty than ever; both by the silence of his Majesty with regard to the terms of this important negociation, and by the doubtful event that may attend the councils of his ministry. Thus, my Lords, in effect, we are certain of nothing, but of our being in a worse situation than ever; though uncertain as to the particular circumstances attending that situation. We are certain that the public is 500,000*l.* the poorer than it was at the end of last session, and at the same time has not reaped one advantage from so vast an expence. These, my Lords, I humbly conceive, are not very inviting considerations to induce us to return thanks for the speech from the throne in the terms proposed by the noble duke.

I shall trouble your lordships only with a few more observations. As affairs have been managed betwixt us and Spain, all the war that we have had has been but a paper war; and, my Lords, who has had the advantage in that war, is no hard matter to determine. But, my Lords, had the war been managed with swords instead of pens, and had we spoken from the mouths of our cannon instead of our ambassadors, I dare boldly to pronounce the advantage would have been on the other side. Not that we are destitute of as good heads as they have in Spain; but, my Lords, it has not been our good fortune to have them employed in this negociation. We have not yet, my Lords, had any reason to think that the heads of our ministers are equal to the hearts of our people: therefore, my Lords, give me leave to say, we have trusted too long to the abilities of the first, and too much disregarded the sense of the last. This consideration, my Lords, gives me great room to apprehend, that if we should proceed further in the way of negociation, the match is by no means equal; we have ever yet been losers at that game, and I think it is now high time for us to alter our play; though I doubt, my Lords, our affairs are in such a way, that it is beyond the reach of the ablest heads to work out our deliverance, any other way than by a change of measures, and endeavouring to regain by war, what we have lost by negociation. For these reasons, my Lords, I am for leaving out the 2nd, 3rd, and 4th Paragraphs.

The Duke of *Newcastle:*

My Lords; the terms of the Address, proposed by the noble lord who spoke first, are drawn up with such unprecedented caution, that it is surprizing to me that it should meet with any opposition. At the same time, my Lords, the reasons which that noble lord made use of to support the

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Address he moved for, were so strong and so powerful, that it is equally surprizing that the noble lord who spoke last should not either own his being convinced with their force, or attempt to give them some answer. I am sure, my lords, if they could have admitted of any answer, the noble lord was very capable of giving it; and, I believe, none of your lordships have any reason to doubt of his being willing.

I shall, however, my Lords, endeavour to answer those parts of the noble lord's speech who spoke last, that are founded on arguments drawn from what his lordship seems principally to insist on, the inconsistency of our resolving on an address in the terms proposed, by the noble lord who spoke first, with the resolutions we came to in the last session. I shall then shew the consistency of the address proposed with these resolutions: and, lastly, endeavour to obviate the objections that were rather hinted at than insisted on, by my noble lord who proposed the amendment.

The resolutions, my Lords, that you have heard read, were the result of a very candid and impartial examination of the treaties upon which our rights of navigation and commerce in America are founded; and through the whole course of the debates that happened last session on this subject, it was always understood that this House reposed a full confidence in his Majesty; that the confirmation of these rights by Spain was to be the ground-work of all our future, as, give me leave to say, they had been of our past negociations with that court. At the same time, my Lords, it was understood, that the House was of opinion that his Majesty was to do all he could to get these rights confirmed by Spain, before he proceeded to the extremities so warmly insisted on by my noble lord. The first resolution is upon a fact, that we have no reason to believe has been either neglected or misunderstood by the ministry. I am not at liberty to inform your lordships of the particular manner in which this is guarded by the Convention, nor would it be regular in me to do it: I shall therefore confine what I have to say on that head to what his Majesty has been pleased to hint in his speech from the throne; and endeavour to shew from thence the propriety of the terms in which the proposed address is conceived. This, my Lords, I hope will be thought a fair and an equitable way of reasoning, since in all deliberations we are obliged to act according to the evidence that appears: and the only regular evidence we can yet have of its being proper or improper for us to agree to the address without the amendment, must arise from that part of his Majesty's speech which regards this measure.

The noble lord who spoke last, reasoned all along upon a supposition, that this House understood that his Majesty was to declare war with Spain immediately upon presenting our last Address: but it was quite otherwise; for if a treaty could be concluded upon the foot of what this contained, all the ends which this House proposed by by presenting that Address were gained. How does it appear, my Lords, that this was not the principal consideration that entered into the negociations for concluding this Convention? Does it appear from his Majesty's speech? No, my Lords, his Majesty has been pleased to inform us, that the Convention is for settling all 'Matters in dispute in such a manner, as may for the future prevent and remove all new cause and pretences of complaint, by a strict observance of our mutual treaties, and a just regard to the rights and privileges belonging to each other.' If we are to reason on the fitness of this measure, my Lords, from these words, there never was any measure more consistent with, and more consequential of the sense of this House. We never intended to dictate to his Majesty the steps that were proper to be taken on the commencement of this negociation: it was enough, it answered all our purposes, if our rights were put on such a foot, as to render it impossible for the Spaniards to have any pretext for continuing their depredations and violences. If the definitive treaty which is to follow upon this Convention, has regard to, and is founded on the treaties now in force betwixt the two crowns, as is strongly implied by his Majesty's words, it is as much as the most sanguine lord in this House can, with any colour of reason, insist on. Your lordships first Resolution, which has been read by your clerk, is founded on an observance of those treaties, and the observance of those treaties is the only true security which we can have for our commerce and navigation. Therefore, my Lords, I cannot see the least foundation for inferring any inconsistency betwixt this Convention, so far as it appears from his Majesty's speech, and your lordships' Resolutions of last session.

I shall now, my Lords, take the liberty

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to consider the words of the Address proposed by the noble duke who spoke first. Your lordships there declare, 'That you offer his Majesty your thanks for acquainting you from the throne, that a Convention is concluded, and likewise for his royal care in making use of the confidence reposed in him with no other view, but the general and lasting benefit of the kingdom.' You then proceed, my Lords, to say, 'That reparation for past injuries and losses, and effectual security for the future, founded in justice, and warranted by treaties, have been the great views of his Majesty and the parliament in this national and important affair.' Can any thing be more unexceptionable? Can any thing be more congruous with the sense which this House has always entertained of this matter, than these expressions? There is implied in them no blind approbation of a measure which you know nothing of, and which precludes any of your lordships from making what objections you please to the Convention, when it may come before you. If your lordships should then find, that reparation for past injuries, and security for the future are not sufficiently provided for by that Convention, your lordships are so far from being tied up from objecting to it, that these very expressions are so many rules, which you have already laid down for judging of its merits, and by them you give the nation and the ministry to understand, that you are resolved to approve or disapprove of this measure, in proportion as you shall find it agreeable to, or inconsistent with these sentiments.

I have heard it laid down as a very good rule, whereby one can judge of the fitness or unfitness of any proposition, to invert the meaning of the words, and then to compare the real with the inverted sense, and if the latter is highly absurd, it is a strong presumption in favour of the former. If that rule were to be applied in this case, how would the last sentence which I repeated from the noble duke's motion stand? Why, my Lords, we should then declare, that reparation for past injuries, and security for the future, were not to be founded on justice, and warranted by treaties; we should then declare, that reparation for past injuries, and security for the future, founded on justice, and warranted by treaties, were not the great views of his Majesty and of this House. What a string of monstrous absurdities should we have in such expressions!

The noble lord who spoke last, was pleased to find fault with this convention, because it is not a definitive treaty. Really, my Lords, I should have been as glad as any Lord in this House, if a definitive treaty could have been brought about with Spain before this time: but, my Lords, whoever considers the complication of demands on both sides, the multitude of intricate facts that were to be examined into, and the various pretensions to be adjusted, must be of opinion, that there is more done since last session, than could have reasonably been expected, especially as we had to do with Spaniards, a people not at all famous for their dispatch in business; and, my Lords, though this is no definitive treaty yet it lays a very solid and ample foundation for such a treaty.

In any definitive treaty that should have been, or is to be made, two things are principally to be regarded: the first is, reparation for past injuries; the next, security for the future. As the first immediately regards our suffering merchants, his Majesty, like the true father of his people, chose to have their interests taken care of even previous to those of his own crown. In this respect, my Lords, the Convention is a definitive treaty; since, by it, the account between Spain and England is adjusted, and the sum to be paid to our merchants, stipulated. The other part, which a definitive treaty must consist of, is security for the future. This, my Lords, as appears from his Majesty's speech, is as fully provided for, as it is possible to be in any Act that is not definitive. Plenipotentiaries are to be appointed, the plenipotentiaries are in a limited time to finish their negociation; and the ground work of this negociation is to be a strict observance of mutual treaties, and the just regard to the rights and privileges belonging to the two contracting powers. Thus, my Lords, the foundation for such a definitive treaty, as every man in this nation ought to wish for, is laid; and, at the same time, we have an earnest of the sincerity of Spain, in finishing such treaty, by her agreeing to pay the stipulated sum to our merchants. For, my Lords, if no definitive treaty is to follow upon this Convention, we have gained this vast advantage, that the demands of our merchants are satisfied. Besides, my Lords, the allowing this very satisfaction implies all that we claim from any future treaty. For to what purpose is this money paid? It is paid to satisfy our merchants for those damages which they

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have sustained in violation of the treaties subsisting betwixt England and Spain, and our rights of navigation. My Lords, if the court of Spain did not own that these treaties have been violated, that these rights have been infringed, we cannot suppose that she would have paid damages for such a violation. If she entertains any hopes that our plenipotentiaries may give them up, this is the most likely way in the world to disappoint her. She has now owned herself guilty, and gives us an earnest of her sincerity in concurring in such measures as may prevent any future injuries or differences betwixt the two nations. Thus, my Lords, I have endeavoured to explain to your Lordships what the Convention is, as the noble lord was pleased to explain what it is not; and, as I have all along kept in my eye the words of his Majesty's speech, I hope your lordships will not find that I have exaggerated any of its advantages.

The noble lord who spoke last was pleased to condemn the whole of the proposed Address, except the first paragraph, but did not point out any particular passages that are exceptionable; but, my Lords, it is no hard matter to guess at those passages which he thought most so, from the tendency of his lordship's speech. The Address proceeds to assure his Majesty, 'That if these purposes, reparation and security, can be attained without plunging the nation into a war, it must give the truest satisfaction to all his faithful subjects.' Can any man, my Lords, deny the justness of this proposition? Is it not as expressive of tenderness for the rights of the subject, as of duty to the person of his Majesty? A war, my Lords, wantonly entered upon, might soon be attended with worse consequences to the interests of our merchants, and to the nation in general, than all the depredations we have yet suffered from Spain. And though it should become necessary, yet it never can be eligible. It is therefore surprizing to hear some amongst us, who are perpetually complaining of the decay of trade, and the exorbitancy of taxes, perpetually insisting upon measures that must utterly ruin the one, and greatly enhance the other. Therefore, my Lords, it is just, it is prudent in us, to let all Europe see, by our Address to his Majesty, that we prefer an honourable peace to an uncertain war: this will remove all suspicion from other powers, of our entertaining any ambitious designs to dispossess Spain of what has been granted to her by so many express treaties. We thereby make it a defensive war on our side, and deprive them of all pretext to call in their allies to their assistance; and indeed what allies will assist in a war undertaken to support rapine and injustice?

But, my Lords, while we talk of these measures, we absolutely leave the subject of this debate; a fault, my Lords, which while I blame in others, I am very apt to commit myself. The business we are now upon, with all submission, is not an enquiry into the conduct of the ministry since our last meeting, but how far it may be proper in us to agree to the amendment made by the noble lord who spoke last. His lordship, in support of his amendment, did not think fit to point out any particular improprieties in the Address moved for by the noble duke; he did not shew us wherein any of its expressions tended to approve of the measures of the ministry, that have not yet come to the knowledge of the public. But my noble lord thinks that all expressions of thanks, all assurances of duty to his Majesty, ought to be reserved till we see how well his ministers have deserved. My Lords, an address of thanks for a speech from the throne has always been looked upon as matter of form, as a compliment paid to the crown; and your lordships have never thought it necessary to confine your assurances of duty and zeal to the information you received of a minister's conduct since your last meeting. When his Majesty told you that a treaty had been made during your recess, you never thought it necessary to be informed of the particular contents of such a treaty, before you agreed to the resolution of presenting thanks to his Majesty for the care he had taken in making such a treaty, and the segard he had shewed to the House by informing them that such a treaty was made. There is an instance of this upon your lordships' Journals, the first session after the treaty of Seville was concluded. The affairs of Europe were at that time in a very ticklish situation, and that treaty was to determine a great many important points in dispute betwixt us and Spain: yet, notwithstanding all this, your lordships did not think it absolutely necessary to have that treaty communicated to the House before you came to a resolution of an address of thanks to his Majesty on that subject. My Lords, you voted an address in much stronger terms than any contain-

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ed in the Address now under your lordships' consideration; but it was never meant to preclude any of your lordships from making your objections to the treaty when laid before you. I could bring multitudes of instances of this kind; but I think this one sufficient for my present purpose.

The noble Lord who spoke last, said, and indeed he said it very justly, that the speech from the throne was to be considered as the speech of the minister. My Lords, it is so; and I believe it ever will be so, as long as we have a king, and as long as we have a minister. But, my Lords, the addresses we return to such speeches can never be looked upon as any compliment to the minister, or giving any sanction to his measures, because they are full of expressions applicable to majesty alone; and it has ever been thought necessary to insert such expressions, that the nation and all the world may have reason to look on the crown and the parliament as but one body, acting for the common good of the nation. If, my Lords, there ever was a time when a right understanding betwixt his Majesty and his Parliament was necessary for the good of the public, this is that time. If ever there was a time wherein it might be improper for us to abate any of our expressions of duty and zeal, it is now. And give me leave to add, my Lords, that there never was a time wherein your lordships had less reason to make any such alterations in your ordinary forms of proceeding.

Having thus, my Lords, I hope, shewed the consistency of the address moved for by the noble duke who spoke first, I shall beg leave now to say a few words in answer to some things that fell from my noble Lord who spoke for the amendment. His lordship was pleased to think it extremely odd, that we have reapt no other advantages besides this Convention from the great addition with which we strengthened his Majesty's hands. Great preparations were made, says the noble Lord, the nation was put to great expences, and now we are obliged to take up with a Convention instead of a treaty. My Lords, give me leave to say that we are quite in the dark what that Convention may be; the noble Lord will not condemn a thing unseen, unheard. I have, I hope, proved to your lordships, from the words of his Majesty's speech, that we have all the reason in the world to presume the best of this Convention, nor do I think the noble lord has advanced one argument that can prove the contrary. As to the preparations we have made, and the expences we were at, your lordships' judgment of them can be determined only by the effects they have had, and your lordships can only know what these effects are, when the Convention is laid before you, which will be in a very few days. In the mean time, my Lords, I will be bold to say, had it not been for the fleet we fitted out, and the vigorous preparations that we made, the Spaniards would never have been brought to treat, they could never have been brought to allow of a reparation of the damages our merchants have sustained. And, my Lords, I will say farther, that this reparation, that this owning themselves to have been in the wrong, was a more happy effect of an armament, than ever was known on the like occasion. Search our histories, my Lords, look back into all the treaties that have been made betwixt us and any other nation in the world, or betwixt any two nations treating together, we shall find no instance where the offending nation not only admitted herself to have been in the wrong, but actually to have paid damages for that wrong. So that, my Lords, upon the whole it is surprizing, that the noble lord who was for the amendment, should tell your lordships, that we are certainly now in a worse situation than ever. Is not the contrary evident? Have we not brought the Spaniards to treat? Have we not laid it down as the foundation of a future treaty, that they are no longer to act upon the same principles, and in the same manner, that have given us so just grounds to complain? And as this is a settled preliminary, I should be glad to know of any noble lord, what treaty concluded with Spain can be disadvantageous to this kingdom, where such a preliminary is laid down. I am sorry I have detained your lordships thus long upon a subject which I believed could have admitted of very little debate; but I thought the station I have the honour to serve his Majesty in, required me to do all that I could to clear up any doubts, and to remove any objections, which lords might entertain against the Address, as moved for by the noble duke.

The Duke of *Bedford:*

My Lords; there is not any one reason that has been advanced by the noble duke who spoke last, that has not had a quite contrary effect upon me, than what

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it seems to have upon the noble duke. His grace thinks that we ought to approve of this Convention, because we are in the dark about it; my Lords, that is the very reason why I think we ought not to approve of it; I think we have been kept too long in the dark already, with regard to every step of this long and intricate negociation with Spain. Perhaps, my Lords, if we had been kept less in the dark some years ago, the nation might have seen its interest more clearly; we could then perhaps have interposed with greater dignity, with greater weight, than, I am afraid, we can now. But I hope it is not yet too late; the Convention which his Majesty has been pleased to inform us of from the throne, can never be thought to have received its finishing stroke but from the approbation or disapprobation of both Houses of Parliament. We have, my Lords, before this time, rescued the nation from ruin, by rejecting measures that had received the last hand from a ministry, perhaps a corrupt ministry indeed, but a ministry that had the same same power, the same authority for what it did, that any subsequent ministry can pretend to have. Your lordships, no doubt, know that I mean the famous treaty of Commerce with France, which was thrown out by the parliament of Great Britain about the time when the treaty of Utrecht was concluded.

I shall willingly agree with the noble duke who spoke last, in thinking that our unanimity is the best means of securing the nation against all the attacks either of her open or concealed enemies: but that unanimity, my Lords, can only be brought about by every lord in this House contributing all that is in his power towards discovering by what means it has happened, that the solemn resolution of this House, which was laid before his Majesty, has been neglected, wilfully neglected, by the negociators of this Convention. Can it be expected, my Lords, that we shall be unanimous in our approbation of a measure that carries along with it such evident marks of disrespect to parliament, and thereby lays the foundation of measures that may put it out of our power ever after to be of service to the nation? My Lords, I can never be persuaded that if the ministry had got from Spain an ample renunciation of all pretence to a right of searching our ships on the open seas, they would not have informed the nation of so considerable a point gained; we should have heard of it in all companies, in all our newspapers; and, my Lords, it would have been fully and explicitly set forth in his Majesty's speech. Therefore, my Lords, even his Majesty's silence on that head is to me a sufficient proof, that no such renunciation has been obtained; nay, to me it is a proof, that the Spaniards insist on their claim to search our ships, and that we have even submitted to have it discussed by the plenipotentiaries, who are to meet upon the definitive treaty. This is so evident a contempt of the parliament's advice, as if two plenipotentiaries were better judges of our rights of navigation and commerce, than both Houses of Parliament, that it is surprising to me, that even an attempt should be made to excuse it, much more to defend it.

My Lords, when I heard that a Convention was concluded, I imagined that the definitive treaty, which is to follow on that Convention, would not be referred to commissaries; and that some other name would be invented for these gentlemen's powers. We had enough of commissaries at the treaty of Seville; that treaty, my Lords, was, in the main, little better than a Convention; since, as in the other Conventions, a great deal was left to the decision of commissaries. None of your lordships are ignorant of the progress these commissaries made in settling the affairs referred to their decision; and that after some years expensive and fruitless negociations, they left them in a more perplexed state than they were before. The points left to their decision were not indeed of such importance, as those which by this Convention seem to be left to plenipotentiaries: but, my Lords, can we easily imagine that plenipotentiaries will be more expeditious than commissaries? I am apt to think, my Lords, that they will be a great deal more slow, because the points referred to their decision are of a much weightier nature. Therefore, my Lords, as we have found already by experience, that an eventual treaty, if I may call it so, has been so detrimental to the nation, I think it would be highly improper for us to approve of our ministry's concluding another, which we have great reason to think is of a still more pernicious nature. My Lords, I would not be understood as if I were absolutely for condemning the Convention before we know what it is; but I humbly conceive, that there is a great difference betwixt not giving a sanction to a measure, and utterly

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rejecting it. By our agreeing to the address as amended, we only give the ministry to understand, that we are surprised they should venture on a manner of negociating, that has been already so detrimental to the nation: but we do not at all profess, that we are resolved to disapprove of it, if, contrary to what we apprehend, there should be some peculiar advantages in this negociation, that may reconcile it to the interests of the kingdom. This, my Lords, is the light in which I view the opposition that is made to the address proposed by the noble duke. And, my Lords, by agreeing to the amendment, we do not go the length that parliaments used to go in former times. Formerly, my Lords, when a speech was made from the throne, a particular day was appointed by parliament for taking that speech into consideration, and in the mean time a Committee was appointed for enquiring into, and drawing up a state of the grievances of the nation. And, my Lords, these grievances were presented to the throne before they returned their address of thanks, which was always qualified according to the hopes which the crown gave them of redressing these grievances. My Lords, no man who understands the history of England, will say that our fore-fathers were either wanting in the duty they owed to the prince, or in their concern for the liberty of the subject. And, my Lords, though the liberty of the subject may now seem more secure from the encroachments of the crown than it was formerly, yet the example of our wise ancestors cannot be too closely imitated, especially when we are apprehensive of any of those grievances under which they laboured. For these reasons, my Lords, I am for the amendment.

The Earl of *Scarborough*:

My Lords; I have considered the address proposed by the noble duke, with all the exactness, with all the impartiality I am capable of. I have the greatest personal regard imaginable for the noble lords who have spoke in this debate: and, my Lords, were my opinion to be determined by private views only, my esteem for the Lords who have spoken on this question is so equal, that I should remain neutral: but when I either consider this address by itself, or compare it with addresses upon the like occasions, I cannot but be of opinion, that our agreeing to it without any amendment, is no more than a bare acknowledgment of duty to the person of his Majesty, and is even inferior to the assurances which this House has often given to the crown at the opening of a session.

My Lords, when the convention shall be laid before your lordships, no lord here shall be more impartial and sincere in declaring his sentiments upon it than I shall be. And, my Lords, if I thought there was the least expression in this address without the amendment, that precludes me from delivering myself afterwards with freedom, no lord should be more hearty than I for the amendment. But, my Lords, I cannot see any one expression in the address without the amendment, that can be wrested into an approbation of the convention. We there declare, in general terms, what no lord can deny; we declare that if the ends of peace can be procured without plunging the nation into a war, that such a conduct is certainly eligible; we express our gratitude to his Majesty for his endeavours to obtain these ends by the more moderate measures of negociation. Where, my Lords, is the compliment to the minister here? his Majesty has told you that he has endeavoured to obtain a peace that will answer the expectations of the kingdom: we thank his Majesty; for what? not for that peace; but, for his endeavouring to procure such a peace: for if it is not such a peace, my Lords, we are still at liberty to object to it, when it is laid before us. If a man tells me that he had done his utmost to serve me in such or such an affair; if I believe that man to be an honest man, I am bound to thank him for his good intentions, even though I should be sensible at the same time his zeal was mistaken, nay though I may afterwards find that it has been prejudicial to my interests.

Your lordships thank his Majesty for acquainting the House that a convention is concluded, and that it shall be laid before the House. My Lords, I am sure there is nothing here that looks like incense to the minister. Your lordships know that the power of peace and war is in the crown, as the noble lord who spoke last observed; and that our constitution always understands that the crown has a right to make either, without the participation of parliament. No wise king will indeed venture upon this; but, my Lords, no dutiful parliament will refuse to thank such a king for his condescension in thus making the parliament as it were partners in his prerogative.

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In the last paragraph, my Lords, we declare that we will endeavour to avoid all heats and animosities. Can any thing be more desirable, my Lords, than unanimity? Can any thing be more pernicious to public deliberations than discord? In this natural, this simple manner, my Lords, I view this Address. I have no farther aim in giving my voice for it, than to express my duty and regard to his Majesty's person. I do not know what apprehensions other Lords may entertain, but I see no grounds for any; and I should be sorry, my Lords, if our jealousy of the ministry should ever make us violate our duty to the Crown. I am far from disapproving of such a jealousy, while it is kept within proper bounds; but, my Lords, when it suggests imaginary fears, and groundless apprehensions, such a jealousy may be productive of as fatal consequences, as too great confidence. My Lords, I own I am not deep-drawn in politics; therefore I cannot answer for the uses which the ministry may make of this Address if agreed to without the amendment: but, my Lords, I here openly declare before all your Lordships, though I am for agreeing to this Address without the amendment, that I reserve to myself the privilege of speaking my thoughts with regard to this convention, in as full and explicit a manner, as I must be supposed to have done if this Address had never been moved for, nor agreed to. My Lords, perhaps, when the convention comes to be laid before us, it may be found that, though I differ from some noble Lords with regard to this Address, yet that I do not differ very widely from them with regard to my sentiments about the convention. Therefore, my Lords, I could heartily wish that all your lordships would view this Address in the same light that I do. This, my Lords, will be the means of answering the just expectations of his Majesty, and letting all the kingdom see that no consideration shall divert us from a pursuit of the public good.

The Earl of *Chesterfield*:

My Lords; the esteem and affection I have for his Majesty, and the regard I have for every thing that may any way contribute towards establishing him in the hearts of his subjects, are so well known, that I need not trouble your lordships with any professions on that head; and if there were nothing in the Address now proposed, but expressions of duty towards him, and zeal for his service, I should be far from desiring or agreeing to any amendment; but the duty I owe to my King, the regard I have for the honour of this House, and the resentment every man ought to shew for the injuries his country has received, forbid my agreeing to the proposition as it now stands.

I shall agree, my Lords, that those expressions, which may be thought to relate to any part of our late conduct, are very general, more than ordinary care has been taken to make them so; but even this is an argument for the amendment proposed. So great caution is a sort of proof that matters are not all right; it shews a consciousness of some misbehaviour, which ought to give us suspicion; and that suspicion ought to make us avoid inserting any thing, though in the most general terms, that may relate to our late conduct. In the proposition as it now stands, there are many paragraphs that, notwithstanding their being addressed to the King, must relate to the conduct of our ministers; for whatever is done, we must in this House suppose to be done by the ministers; and therefore, if we make use of any expressions that may look like compliments upon our late conduct, though they be addressed to the King only, they will, without doors, be looked on as an approbation of what has been done by the minister. They will be represented as such in a place, where, from this House, nothing should come that may in the least misguide.

The paragraphs that relate to our late transactions, are indeed so general, and the turns of expression so artfully and cautiously chosen, that, upon any ordinary occasion, I should not perhaps have made an objection; but, my Lords, the present emergency is the most extraordinary, the most important, that has ever happened since I have had the honour to sit in this House. Our trade, our very being, is deeply concerned in every resolution we can come to during this session of Parliament. The only profitable branch of our trade, I am afraid, the branch upon which all the other, and consequently the being of this nation, depends, is now at stake. It has been in danger for many years; but it is now upon the brink of perdition, and can be recovered from the precipice upon which it stands, only by the integrity, the wisdom, and the steadiness of this House.

I shall not pretend, my Lords, to know

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any thing of the convention we have lately, it seems, accepted of: I say, my Lords, I shall not pretend to know any thing more of it, than what his Majesty has been pleased to impart to us, by his speech from the throne; but from what he has told us of it, I must think it ought, I hope it will be censured. By his Majesty's speech he has told us positively what is done, and negatively, what is not done. He has told us, we have got the promise of a stipulated sum, for he does not say that this sum is either paid, or secured to be paid; but he has likewise told us, that we have got nothing else; all the rest of our disputes with Spain are referred to commissaries, who are now to be called plenipotentiaries. They are to have a higher title than they had formerly; consequently, I suppose, they must have higher salaries: and this will of course make them draw their negociations out to a greater length.

This, my Lords, makes the case very different from what it was with relation to the treaty of Seville. His Majesty, in his speech from the throne, after the conclusion of that treaty, told us nothing we could have the least pretence to find fault with. He then told us, we had got every thing we could wish for; and he certainly thought so; but we soon found that he had been misinformed, and that we had been too rash. Now he is so far from having told us, we have got every thing we could wish for, that he expressly tells us, we have got what, I think, may properly be called nothing; what I am convinced will appear to be so. There is therefore no precedent for what is now proposed; and if there were, there are but few late precedents, that can be much insisted on as good rules for our future conduct.

Reparation for the losses our merchants have sustained is, it is true, my Lords, an article which we ought to have insisted on; but it is the article of the least consequence, and the only article which could admit of a discussion before commissaries or plenipotentiaries, call them which you will. The other articles in dispute between us and Spain, are all of much greater consequence: and they are of such a nature, as cannot admit of a discussion; because they must be expressly granted, or peremptorily denied. Yet this article about reparation, his Majesty has told us, is the only article that is settled by this convention: so that what cannot admit of a reference, we have referred; and what could not in its own nature admit of a just and immediate determination, we have determined. But how, my Lords, is it determined? not at all to the honour or advantage of Great Britain, if I am rightly informed. We have, it seems, made a lumping bargain of it. Our merchants claimed 430,000*l.* they had really been robbed of by the Spaniards; without reckoning the loss they sustained by the interruption of their trade, by the high premiums they paid upon insurance, and many other losses that have been occasioned by these depredations. They claimed this sum as the value only of those ships, that had been actually sent out by them, and seized or plundered by the Spaniards: They claimed nothing for the ships they might, and would have sent out, if it had not been for the interruption they met with in their trade; nor did they claim any thing for the high insurance, and other extraordinary charges, they were put to upon those ships that had the good luck to escape. A computation of this kind would have made their claim amount to double the sum: yet this great claim, it seems, we have lumped with the Spaniards, and by this convention have accepted of 155,000*l.* in full for the whole; and even this sum, notwithstanding this most extraordinary abatement, is not to be paid to our merchants by the Spaniards, but by ourselves. Is this, my Lords, to be called a reparation? And yet this reparation, such as it is, has cost us at least 4 or 500,000*l.* extraordinary charges, since last session of parliament. If this be a reparation, I hope we shall have no more such; two or three such reparations would undo us.

From hence your lordships will see, we have no great reason to approve of what his Majesty has told us we have got: and now with regard to what his Majesty has told us we have not got: Are plenipotentiaries to regulate the searching of our ships upon the high seas? I hope no British plenipotentiary will dare to regulate, what this nation must never, nor in any shape, admit. 'No search', my Lords, is the word with every man of common sense in the kingdom. It was the sense of both Houses, last session of parliament; and in the resolution your lordships then came to upon this very head, you have declared that the searching of our ships on the open seas, is a violation of the treaties subsisting between the two crowns. No search was therefore the chief article we ought to

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have insisted on, in any new treaty between the two crowns. Without this we can have no security, we can have no reparation for the insults and dishonour the British flag has met with. They have lately set up a pretence to search our ships upon the open seas: The very setting up of such a pretence, is an affront put upon us by them: but to conclude any treaty or convention with them afterwards, without an express disavowal of all pretences of that kind, is putting a new and a much greater affront upon ourselves. This we have done: His Majesty has told us we have done it. Is it possible that such a step can escape the censure of parliament?

This, my Lords, is the case now before us. We are not to judge of, or condemn the Convention, before we know what it is. His Majesty has in his speech told us what it is. He has told us that something is done, which ought not to be done. He has told us that a point of the utmost consequence to our trade and navigation is referred to the regulation of commissaries, which in its own nature can admit of no regulation. This is what every unprejudiced man in the nation must condemn. It is what your lordships have already condemned by the Resolutions you came to last session of parliament; and when from his Majesty's speech it appears, that something has been done, which you must, which you ought to condemn, as soon as you come to enquire into it, can you make use of any expressions in your Address, which may look like an approbation of what has been done? Can you mention such a measure without testifying your dislike?

I shall always, my Lords, be for shewing as much respect and esteem for his Majesty as we can express; I shall even be for shewing, upon all occasions, as much complaisance as is consistent with the dignity of this House. When I do so, I speak from the sincerity of my heart; but that very sincerity will always prevent my shewing such a complaisance as may mislead. When we approve, or but seem to approve, of measures which ought to be censured, which almost every man without doors does censure, it is shewing no complaisance to our sovereign: It is behaving with insincerity, I may say with infidelity towards him, for the sake of shewing a mean complaisance to his minister. This is a behaviour, which no precedent, no custom, can warrant: it is a behaviour which every man must in his conscience condemn. But what is this custom which is now pleaded for such a fawning, such a false sort of behaviour? Why, my Lords, it is not of much above twenty years standing: it is not much above that time since we first began to echo back paragraph by paragraph, in our Address, the King's Speech from the throne. It was a bad precedent at first, and therefore ought never to have been followed. But even this custom, bad as it is, neither ought nor can be made a precedent upon the present occasion. Upon no former occasion can it be said, that even from the King's Speech, something appeared to have been done, which ought not to have been done, and which this House could not but perceive, from what his Majesty told them of it in his Speech, that they would be obliged to censure. This, my Lords, is the case at present: his Majesty in his Speech has told us, that the searching of our ships upon the high seas is referred to be regulated by the commissaries. Can your lordships approve of this? Can you mention it without a censure? therefore the greatest regard, the greatest complaisance you can, upon the present occasion, shew to his Majesty, nay the greatest complaisance you can in honour shew to his Minister, is not to mention it at all. For which reason, I hope your lordships will, at least upon this occasion, resume the ancient method of addressing, and for that purpose agree to the Amendment proposed.

The Earl of *Cholmondeley*:

My Lords; I was indeed very much prejudiced in favour of the Address moved for by the noble duke who spoke first, upon hearing it read by his grace; but am now perfectly satisfied of its being a proper Address for us to make on this occasion, having heard unanswerable arguments urged in support of it, and all the arguments on the other side having, in my weak judgment, been levelled rather against the Convention than against the Address. What this Convention is, a very little time will shew; but since we cannot as a House yet know what it is, I think it very extraordinary that the noble lord who spoke last should enter upon arguments that entirely relate to it, and are therefore quite foreign to the subject of this debate.

The noble Lord hath entered on a debate, wherein the Lords who are on the other side of the question, cannot be supposed prepared to answer his lordship; however, as I think that so much of his

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speech, as can be supposed to have any relation to the present question, may very easily admit of an answer, I shall crave the indulgence your lordships have always shewn me on such occasions. The noble lord was pleased to say, that the first paragraph of the Address moved for was sufficient for all the purposes of an Address to his Majesty on this occasion, and that all the rest was incense to his ministers. My Lords, that noble Lord, as he knows the forms of this House extremely well, none better, must know that when a Speech is delivered from the throne, it is always thought decent and dutiful to say something in our Address of Thanks to every paragraph, and every material sentence in the speech. This, my Lords, is thought a proper way of proceeding even in matters of common life; it has always been thought right in one person to take some notice of what has been communicated by another, though perhaps his inferior, either in words or writing, and to let no part of his speech or letter pass without some answer. If this, my Lords, is requisite in private matters, it is much more so in affairs of state, wherein the good correspondence that subsists betwixt his Majesty and his parliament is the principal cause of our government's making that figure both at home and abroad which I shall always desire it should, and which, I hope, it always will. The noble Lord who spoke last has, my Lords, given us a great many reasons why no alteration of this method ought to be made at present. His lordship has described, in very feeling terms, the bad situation of our affairs both at home and abroad: and though I can by no means agree with the noble Lord in all his sentiments, yet I think that the more desperate our affairs are our proceedings ought to be expressive of the greater duty to his Majesty, and the greater unanimity amongst ourselves. This, my Lords, is the right, this is the ready way to extricate ourselves out of all our difficulties; whether they proceed from the mismanagement of those in, or the practices of those out of power. This House, my Lords, ought to be of no party; if the public councils are embarrassed, if the affairs of this nation are in disorder, we ought to unite our endeavours to retrieve them; we ought to make that our first care; and then we shall have leisure enough to enquire by whose mismanagement, by whose treachery, those inconveniencies have happened.

I shall readily admit, with the noble lord, that Spain has never yet failed to improve every advantage she has obtained, to our prejudice; but I am far from thinking that these advantages have been owing to the management of our present ministry. But, be that as it will; if, upon this occasion we give the Spaniards the least ground to suspect that there is not a perfect good understanding betwixt his Majesty and his Parliament, and amongst all the members of the Parliament, we give them the fairest opportunity they ever had of improving that misunderstanding to our prejudice. Then, my Lords, and it cannot be till then, we may fall into that contempt, that disregard, among our neighbours, which the noble lord has described. And here, my Lords, I must take notice, that the most obvious and natural way, by which any of our neighbours can judge of the dispositions of this nation and government, is by what passes betwixt his Majesty and his Parliament; and nothing can give them greater encouragement than their observing that we have put such a mark of disrespect upon his Majesty, as to take no notice of the principal transaction that his ministers have negociated since last session, and which his Majesty has declared he will order to be laid before you. With the Spaniards, my Lords, it must have this bad effect, that they will immediately conclude, the Parliament of Great Britain is resolved to condemn this negociation at all events. Therefore they will think themselves under no obligation to perform any of the stipulations on their part, since the whole must be ineffectual by its not meeting with the approbation of Parliament. This notion, my Lords, will give them greater encouragement than any incident that can happen; for if the Convention is ineffectual, there is no reason that they should discontinue their depredation, there is no obligation for them to fulfil their engagements. At the same time they have nothing to apprehend from a state divided within itself, where the Parliament in a manner declares that they are resolved not to be satisfied with a measure which has been judged necessary by the sovereign and his administration, and declares this even before they know what the measure is. My Lords, give me leave to say, that our agreeing to the amendment must necessarily have this effect; and, in that case, my Lords, I should not be at all surprized if this alteration in the conduct of Spain should be imputed to the ministry; I should not be surprized if,

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upon their continuance of their depredations, upon their seizing the ships and effects of all our merchants in their ports or on their seas, we should hear all attributed to the mismanagement of the ministry, when, in reality, it would be owing to nothing but to our own prejudices, which would not suffer us to look into a measure that might have prevented all these consequences, and might have probably put the trade and interest of this nation on a sure and an honourable foundation.

My Lords, if I should follow the noble lord, who spoke last, through every argument he advanced, I should take a method which I have already blamed. I cannot however help observing, that if, as the noble lord seemed to insinuate we ought to do, we make those without doors not only partners but judges of our councils, we are then in a deplorable situation indeed; we may then bid adieu to the dignity, to the influence of both Houses of Parliament. Not that I am for disregarding the sense of the people; far from it, I have as great a deference for their judgment as is consistent with their own interest, or as I, or any lord, ought to have. But, my Lords, it should be always understood that the cases, wherein their judgment is to be consulted, be such as fall immediately under their eye. When private property is invaded by power, when their own rights and privileges are attacked and violated, and when any notorious breach is made in the constitution, the people from being parties have then a right to become judges, in case they are denied all redress from their superiors and representatives. But will any lord affirm, that the sense of the people, or rather a faction amongst the people, ought to influence, far less determine, us in our deliberations about affairs of which the people can have no right information, and which they can only see with the eyes of those whose interest it is to mislead them.

My Lords, the right to make peace and war is indisputably in the crown: even the Parliament itself, though it has indeed a right to advise, has none to direct in such cases; and if ever there was a case in which the people could not receive right information, if ever there was a juncture in which they were incapable to receive it, it is the present, wherein the success of our councils in a great measure depend on the secrecy with which they are formed, and wherein the minds of the people are debauched by the vilest insinuations that faction could suggest. No pains have been spared, no arts have been wanting to make them believe that they have been weakly and wickedly governed. Defamatory libels have been industriously, and I am afraid too successfully, propagated through all parts of the kingdom. Majesty itself has been attacked through the sides of the ministry; in short, no order however sacred, no degree however high, has been exempted from insult. Can a people, my Lords, whose hearts are thus debauched, whose judgments are thus perverted, decide with that impartiality, with that candour, which is requisite in judging of public affairs? My Lords, if the ministry has been deficient in any point of their duty, it is in the indulgence they have shewn to that spirit of licentiousness and defamation that has gone abroad. But this indulgence proceeds from a tenderness for liberty; and this government has ever been cautious of suppressing licentiousness, either in speaking or writing, lest liberty itself should suffer.

The noble lord was pleased to appeal to the young lords lately come from their travels, when he mentioned the contempt which this court and nation are fallen into abroad. My Lords, if this fact is so notorious, as the noble lord seemed to suppose, very probably it would be no secret to every lord in this House; but I own it is so to me. For though I have had the honour of conversing with the lords who have seen the other courts of Europe, and with men who have had great opportunities of knowing the situation of affairs abroad, yet I never heard them insinuate that we were so despicable in the eyes of foreign courts as the noble lord has represented us to be. If, my Lords, we are to judge of the figure we make abroad from the effects which our councils have lately had, I will be bold to say, that there is no period of time wherein the character of the nation in general has been better sustained. But, my Lords, I shall for once admit that our court and nation do not act with that decisive weight which formerly attended our councils and arms; yet I am far from admitting that this is a good argument why we ought to agree to the proposed amendment. If our credit and reputation run so low abroad, we have much stronger presumptions to believe that this is owing rather to the arts of a discontented faction among ourselves, than to our govern-

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ment acting below its dignity. I shall suppose that a foreigner, my Lords, reads the performances of one of our weekly retailers of scandal and defamation: he there sees the government represented in the most ridiculous colours; he sees our most public-spirited measures burlesqued; he sees every man who has the honour to be about his Majesty's person, openly railed at and calumniated. What conclusions may not such a foreigner form? If he is ignorant, as many foreigners are, of the vast liberty which every subject in Great Britain enjoys in publishing his thoughts upon public transactions, is it not natural for him to conclude, that our government is so weak that it dares not resent such gross abuses? If he looks upon us as a people governed by laws, which circumscribe not only the power of the sovereign, but likewise bound the liberty of the subject, will he not naturally be surprized that the government should not take the advantage of these laws, and punish those who so notoriously violate them? Thus, my Lords, the reasons why we are fallen into contempt abroad, if such a fact were true, may be very easily accounted for, without throwing any slur upon our government or ministry.

If, my Lords, the fact is otherwise, as I humbly presume it is; if we still act with dignity, if we still act with weight at foreign courts, the ministry have done more, by bearing up against so many disadvantages, than any set of men who, so far as my reading or experience reach, ever acted in public characters: and this, my Lords, will be sufficient in every impartial, in every unprejudiced eye, to acquit them of any imputation of their sacrificing the honour of this nation, either from public cowardice or private interest. I have, my Lords, been the longer on this point, because I know the opinion of our being pusillanimous and contemptible at foreign courts has been very industriously propagated, with the worst of views; and though I dare say the noble lord who spoke last touched upon it with the best intention in the world, yet it is very probable that he may be misinformed himself, and I am glad of this opportunity to let his lordship know, that the opinion of our being held in such contempt abroad, is not near so general as some would insinuate.

The noble lord, who spoke first for the Amendment, threw out several things that seemed to serve as the foundation of what was advanced by the noble lord who spoke last. His lordship said, that the match betwixt the Spaniards and us was by no means equal in the cabinet. My Lords, I believe it will be very hard for the noble lord, from what appears upon the faith of his Majesty's speech, to prove that a people who disown their unjust proceedings, who have engaged to pay damages, who have agreed to remove all occasion of the like complaints for the future, have outwitted those with whom they treated; it will be a very difficult matter, my Lords, to prove that these stipulations are any marks of victory and triumph. The noble lord who spoke last, however, reasoning from such unlikely supposition, said, that this convention, shameful as it is (though, by the bye, his lordship was not pleased to give any one positive reason why he thought it shameful) was but the prelude to more scandalous terms. My Lords, there is no doubt that one nation, who has differences with another, will do all she can to have these differences accommodated in the manner that is most advantageous to herself; and if she finds herself superior in force to the contending nation, she will impose terms upon her not strictly agreeable to justice: nay, in such a case, if, after the conclusion of even an equitable treaty, she shall find that it is her interest to break through her stipulations, it is very possible she will have very little regard to the ties of equity and honour. But can any lord say, that either of these is, or absolutely will be, the case betwixt Great Britain and Spain? No lord, who does not know what the convention is, can say that it is advantageous to Spain; therefore he cannot regularly object to it, till it is communicated to the House. No lord, I am sure, will contend that Spain is so far superior to us in force, as to be in a condition to impose upon us her own terms; and if any circumstance, any accident, shall hereafter happen that shall put it in her power to violate her faith with impunity, give me leave to say, my Lords, that it is not quite a fair way of reasoning to impute that to the English ministry: for the same argument may serve equally against all treating whatsoever, since it is impossible to foresee contingencies. I would willingly put it to any of your lordships, whether, if the French should avowedly, and without so much as a colour of justice, break any or all the stipulations contained in treaties betwixt us and them, it would be just in this House to

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blame and to reproach the ministry who made these treaties? Ministers, my Lords, are only accountable for the prudence and expediency of their own measures, and not for circumstances arising posterior to these measures, nor the faithless conduct of other people. Upon the whole, therefore, I do not see upon what grounds the noble lord can foretel that this convention is a prelude to more scandalous concessions, unless his lordship supposes that the Spaniards have entered into engagements, which, though they publicly ratify, they secretly purpose to break. But, my Lords, if this convention shall appear to be a good one, as we have all the reason in the world to believe it is, give me leave to say, that our ministers are not answerable for any secret resolution which the Spaniards may have made to break it, or any unforeseen contingency that may hereafter encourage them to evade it.

What I have said on this head will, my Lords, I hope, obviate what fell from the noble lord who spoke last, when he represented the English as in the last agonies of their liberty. I own, my Lords, that expression presented to my imagination the most disagreeable idea that can possibly occur to any man who feels the least affection for his country. But my comfort is, that the liberties of England are safe, while we ourselves have courage and honesty enough to unite in their defence. The liberties of England, my Lords, can only be lost by the treachery of a faction within ourselves, who are resolved rather to give them up, than to forego the darling schemes hatched by their ambition and nursed by revenge. And, my Lords, as the noble lord said very justly, that no lord who wished well to his country could be an unconcerned spectator while it is endangered by a foreign power, I dare say, no such lord will look tamely on while its liberties are sacrificed to a domestic faction. The only means of securing them against both the one and the other, is, by following his Majesty's advice, which you have just now heard from the throne, in avoiding all party-heats and animosities. This is the way to prevent all the fatal consequences that have been suggested by the noble lord, and to deprive the enemies of this nation of the only means they can employ to our hurt. But, my Lords, what an unhappy omen would it be of our divisions, if, upon the very first day of our session, we should, without paying the least deference to the royal advice, and before we looked into the measures which the wisdom of his Majesty and his ministry has thought proper to pursue for the interest of this kingdom, I say, if we should refuse even to thank his Majesty for his endeavours to procure justice and reparation to the nation!

My Lords, the noble duke who spoke on the same side I now rise up for, so fully pointed out the expediency and fitness of this address at this juncture, that I have very little to add to what was said by his grace. I shall only beg leave as a further inducement to your lordships for agreeing to the address without the amendment, to observe, that the most ready means of disappointing the Spaniards, in case they vainly entertain any hopes of being able to impose dishonourable terms upon this nation, is by our acting unanimously, since their hopes can be founded only on our divisions. My Lords, I do not only mean unanimously in a parliamentary sense, but unanimously in a national one; that is, we ought, as subjects as well as members, to act in concert with his Majesty and his ministry; for if our common enemies shall find that there is a misunderstanding betwixt the legislature, or any part of the legislature, and the crown, they can make greater advantages of such a division than of any other Nay, my Lords, give me leave to say, that the dispositions with which we enter upon this affair, when it shall be laid before us, ought to be such as may incline us to support his Majesty's measures, even though they should not appear, to some of us, to answer all the ends which the most vigorous and sanguine may have proposed to themselves.

I know, my Lords, it is given out by some that we ought not only to have it stipulated that the losses of our merchants shall be repaired, but that the Spanish monarch shall pay for the expences we have been at in our armaments upon this occasion. My Lords, such an insinuation can be made only by those who are so much the enemies of peace, that they will make use of the vilest, the most unreasonable suggestions to obstruct it. One nation's paying for the expences another has been at in her armaments to obtain justice, is a thing that is very seldom either insisted on or obtained. There are indeed some very few instances wherein an enraged conqueror, whose enemy is at his mercy, has obliged that enemy to refund some small part of the expences he has been at; but I can defy any

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man to shew me an instance wherein one nation has obtained not only all the ends of her arming, without striking a blow, but has procured likewise a reimbursement of the expences she has been at. In such an event, my Lords, it is always understood, that the giving up the points in dispute is satisfaction enough. In the present case we put the crown of Spain to at least as much charges as we were at, I am credibly informed to double. As soon as an account arrived there that our squadron was fitted out, she gave orders for fortifying all her coast-towns, for fitting out all the ships in her ports, and increasing considerably her forces both by sea and land. This, my Lords, ought to be satisfaction enough to us for the expence of our armament; and had we insisted on having any other satisfaction, we must have given her and all Europe to understand that we were resolved to be satisfied with nothing less than a war. There are several noble lords here, I believe, who may remember the conclusion of the treaty of Utrecht. I would gladly appeal to their lordships, whether we then insisted upon France's paying to us upwards of fifty millions for the expences we had been at in the war then ended. And yet, my Lords, that war was just and necessary. It was undertaken to preserve all that was valuable and dear to us, both as men and Englishmen, and it was conducted with as much glory to this nation as any war ever was to any nation. I should be glad to know of the same noble Lords, whether the Dutch insisted on any such reparation, though their motives of entering into that war were as just as ours; and they were perhaps less able to be at the expences of that war than England was. So that, my Lords, I say, the suggestion of our being refunded all our late expences by Spain, is only in order to make a war with that crown inevitable, and is calculated only to serve the private views of an interested party among ourselves.

I shall now take the liberty to observe to your lordships, that a noble lord seemed to lay a particular emphasis upon the resentment which his lordship supposed that the minister of France would shew, if any power in Europe should talk of a right to search French ships on the open seas. His lordship's expression was remarkable; he said, that minister would not permit any ambassador, who durst talk at that rate, to enter his tenth antichamber of state. My Lords, I have a very great opinion of the French minister's wisdom; I am likewise sensible of the vast power and interest of his sovereign: but give me leave to inform your lordships, that this powerful monarch, that this wise minister have suffered French vessels to be seized and confiscated by the crown and subjects of Spain, and yet have never thought fit to reclaim them. Nay, my Lords, to my certain knowledge, French vessels have been taken by the Spaniards with more aggravating circumstances, and with less colour of justice, than what have happened to any English vessel. That minister, my Lords, rightly considered, that to have gone to war upon representations from one side only, would have been both impolitic and unjust. He considered, that it is the intention of all the treaties which regulate the American trade, that the Spanish property in the West-Indies ought to be sacred, inviolate by any other power. And that to have reclaimed one ship, though perhaps unjustly condemned, might have brought on an enquiry into the abuses committed by other French traders in America, and so in the end have occasioned a breach betwixt the two crowns. And here, my Lords, I cannot but observe the excellency of our constitution, and the tenderness of our government for the rights of the subject. In other countries, my Lords, the property of the subject is often sacrificed to the politics of the government; but in this kingdom the government is obliged to be the guardian of that property, and no subject, however mean his property is, can have it taken from him by any ministry, or by any power. This excellency in our constitution has, my Lords, been of singular use to our merchants upon this occasion, and they have enjoyed the benefit of it to its full extent. I hope, my Lords, no bad use has been made of this indulgence: I hope our merchants have not been made the tools of a faction amongst ourselves, nor have aggravated their losses in order to raise a clamour against the government, which has been so very favourable, so very indulgent to all their claims. I hope farther, my Lords, and I presume my hopes are well founded, that every lord here, who speaks in this debate, is as well acquainted with the nature of the grievances complained of by Spain, as he is of those which our merchants complain of. If we are not, my Lords, if we hear all only on one side of the question, if we are so partial to our-

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selves as to be willing to hear nothing on the other, I do not see how we can ever form a right judgment, even after the convention is regularly communicated to this House. At present, my Lords, we are under very great uncertainty; for we are not only ignorant with regard to the terms of the convention, but we are ignorant of the previous steps that were taken to bring it about, and of the difficulties that the ministry had to surmount before it could be concluded. I am ignorant of them myself, my Lords; but perhaps when the House shall be informed of them, as they will probably be in the course of the debate that may arise when the convention is laid before us, lords may change their sentiments about this measure, however they are now prejudiced against it. For these reasons, my Lords, I think it is extremely improper for us to agree to any amendment of the address proposed by the noble duke who spoke first, and that, if we should agree to the Amendment proposed by the noble lord, we must do it for reasons which, however they may affect some Lords, can never be evident, can never be satisfactory to us as a part of the legislature.

Lord *Carteret*:*

My Lords; I hope, from the whole tenour of my conduct, both without doors and within, it has appeared, that no man has a greater affection for his sovereign, or is more sensible of his duty towards him, than I am; but this is to be testified, and I shall always endeavour to shew it, by telling him the truth. By what is said in an Address, upon any such occasion as the present, we are not, it is true, precluded from giving our sentiments freely, or even from censuring afterwards, what we may seem to have approved of in our Address; but this is not enough: in all such Addresses, we ought either to make general professions only of our affection and duty, or, if we descend to particulars, we ought to have a twofold view. By descending into particulars upon such occasions, we ought to have a view of shewing to his Majesty the sense of his people, and to the people the sense of this House. Therefore, we ought never to say any thing that may tend to make his Majesty believe, that his people are satisfied, when every Lord in this House knows the contrary to be true; nor ought we to say any thing, that may make the people mistake the sentiments of this House.

The whole nation, my Lords, have now their eyes fixed upon the Parliament; they have been greatly injured, they have loudly complained; and it is from the Parliament only they expect relief. Shall we, my Lords, by our Address upon this occasion, make his Majesty believe, that his people are satisfied with what has been done? Shall we make the people believe, that we are satisfied? The very thought would throw such a damp upon their spirits, as would make them despair of any legal relief; and what might be the fatal consequences of such a despair, God only can tell; for fatal they must be, let it take what turn it will. If they sit down tamely, and only groan under the weight of sorrow they feel, we have broke, we have undone the spirit of our people; we have made them fit for slavery and arbitrary power. But this, I hope, will not be the consequence; the people of England will suffer, they have suffered a great deal; but they will not suffer too much. If care be not taken in time, if some seasonable relief be not speedily administered, our dominions will be dismembered. They will be dismembered; but they can be dismembered by the sword only; for if those who govern us, do not make use of the sword for their defence, the people will turn it against them: so that by avoiding, wisely, as some amongst us may think, a foreign war, we may involve ourselves in the worst of all wars, a civil one; and by being too much afraid of invasions, we may expose ourselves to what is much worse, a general insurrection.

We have of late years, my Lords, suffered many indignities; we have long suffered. Our people, from a consciousness of their own strength, as well as from the resolutions of both Houses, last session of Parliament, expected, that before this time, full reparation, and absolute security would have been procured by peaceable means, or that a proper use would have been made of the aids so cheerfully granted last session, for procuring it by force of arms. And now what have we got? A Treaty, a Convention, by which, we may see, from what his Majesty has told us of it, that we have got no security, and, I am afraid, little or no reparation. As for the reparation we have obtained, if any, I shall say nothing of it, till I can see, from the treaty itself, what it is; but as for our future security, every man may see, from

* The remainder of this debate is taken from the London Magazine.

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what his Majesty has told us, that it will be rendered more precarious than ever it was heretofore.

While our ships, my Lords, continue to be searched, while any nation in the world dares pretend to search a British ship upon the open seas, we can have no security, we can have no free trade, nor any safe navigation. No Search, my Lords, is the word with every man in the kingdom. It ought to have begun among those about the throne; but wherever it began, it is now echoed and re-echoed from every corner of the British dominions; and shall we seem to insinuate to his Majesty, that he may be satisfied; shall we seem to intimate to the people, that they ought to be satisfied, with referring such a point as this to be regulated by plenipotentiaries, or ministers of any denomination? My Lords, it ought to have been insisted on as a preliminary even to treating. We ought not to have so much as began to treat, till this of no search had been granted to us. In all negociations there are some points, that ought to be settled before any equal Treaty can be set on foot. The Dutch, even in the infancy of their state, would not so much as begin to treat of a short truce with Spain, till the Spaniards agreed to treat with them as a free nation; and at the treaty of Munster, after a war of near seventy years continuance, with very little interruption, they would not so much as begin to treat, till Spain agreed to declare them a free commonwealth. Can we pretend to be a free nation, as long as Spain claims a right to search our ships upon the high seas? Will any of our ministers dare to negociate with them about such a right? Will any minister or plenipotentiary presume to grant it, under any regulation whatsoever?

Such a right, my Lords, had never been claimed, if we had, at the beginning, understood what we were about. It is a difficulty we have puzzled ourselves into, by not understanding the difference between searching and visiting, nor between contraband and prohibited goods. If we had understood this, and had at first properly explained what we were entitled to by the laws of nations, and the treaties subsisting between the two crowns, Spain would never have pretended to search our ships, upon the open seas, in any part of the world. Contraband goods, properly speaking, are only those goods which are used, or useful in war; and as every nation that is at war with any of her neighbours, pretends to a right, not to allow such goods to be carried to an enemy's port, therefore every nation pretends to a right to visit such ships as she meets with at sea, in order to see whether they are bound to an enemy's port, and have any such goods on board. Prohibited goods, again, are those which, by the laws of any particular country, are forbid to be imported or exported; and every nation pretends to a right to search those ships that come into her ports, in order to see that they have no goods on board which are forbid to be imported, and likewise to search those ships that are going out, in order to see that they have no goods on board, which are forbid to be exported.

This, my Lords, is the difference between contraband and prohibited goods, when the two terms are properly and distinctly used: and, the difference between searching and visiting is this; searching is always in port, and never on the high seas; visiting is always on the high seas, and never in port. When a ship in port is searched, the search must be made by the proper officer, and in a legal manner: when a ship on the high seas is visited, she ought to be visited according to the method usually prescribed by treaty, which is thus: when a man of war of one country meets in the high seas a merchant-ship of another country, the man of war is not to approach the merchant-ship nearer than cannon shot, but may send out his boat with an officer and two or three men only, to whom the master of the merchant-ship is to shew his bills of lading, and to these bills of lading the man of war is to give entire credit. Even when it appears by the bills of lading, that she is bound to an enemy's port, and has contraband goods on board, such goods only are to be seized and confiscated. From hence it must appear, that no nation in the world can have a pretence for searching the ships of another upon the high seas; and much less for condemning and confiscating the ship and whole cargo, on account of her having contraband or prohibited goods on board; and therefore it was ridiculous ever to allow the word contraband, or the word prohibited, to enter into the dispute between Spain and us.

Spain, my Lords, may forbid the importation of any sort of goods she pleases into her own dominions, or she may forbid the exportation of any goods she pleases out of her own dominions; and such goods may be called, and may be seized as pro-

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hibited goods, when found aboard any ship in her own ports. But Spain can forbid the importation or exportation of no sort of goods into or out of any part of the British dominions; nor can she forbid the transportation of any sort of goods from one part of the British dominions to another. On board a British ship bound from one part of the British dominions to another, there can be no goods that Spain can call either prohibited or contraband. We can never admit of any such thing: if we do, we can carry on no trade in America. No British ship can trade there, but what must have on board some such goods as the Spaniards call contraband or prohibited. Spanish pistoles and pieces of eight are the current coin of all our plantations; a coin which is often brought there, even by the Spaniards themselves: cocoa is the production of Jamaica as well as New Spain; and logwood grows both in Jamaica and Providence; so that though we should give up our right to the bay of Campeachy, which, I hope, notwithstanding our present submissive temper, we shall not do; yet we cannot allow the Spaniards to seize our ships, on account of their having such wood on board.

But suppose, my Lords, we were to allow of what they call prohibited goods. Suppose we were to allow, that none of our ships sailing in the American seas ought to have such goods on board; yet, surely, we are not to allow them, upon this account, to search our ships on the high seas, and to confiscate ship and cargo, and imprison and maltreat the seamen, when they find such goods on board. The most they could even in this case pretend to, would be to visit our ships in the manner settled between us by treaties, and to seize only those contraband goods they find on board, without detaining the ship, or touching any other part of the cargo. Therefore, even in this case, which is the hardest that can be put, no search on the high seas ought to be the word: no search but in port is the point which ought to have been insisted on, as a preliminary to our treating with them at any rate. For this reason, I am surprised how any minister could think of referring this point to be regulated by plenipotentiaries. The very reference is an injury to this nation, almost irreparable: it is a tacit acknowledgment of the right the Spaniards lay claim to, when put under proper regulations; but I hope no British plenipotentiary will ever dare to settle, or consent to such regulations: if any one does, I am sure, both he and the minister that gave him the power, will deserve the curses of their country, and the highest indignation of this House.

No search on the high seas is therefore, my Lords, what we must insist on. It is what all Europe will insist on. If we should be bullied into the giving up of such a point, or submitting to have our ships searched on the high seas, under any regulations, I am sure France never will. The cardinal, as old as he is, would disdain to hear of treating upon such a subject. He would not admit, even into his anti-chamber, a minister that had come from Spain with such a haughty, such a ridiculous proposition. M. de la Quadra could never have thought of it, if he had not been led into it by the ignorance, or the pusillanimity he found in those he treated with. I remember him a gentleman of very little consideration; but now he takes upon him to say, that the English ought to learn to understand their own rights and privileges. Perhaps he had reason to say so of those he treated with. He could, at that time, mean none else; but if the parliament should approve of this convention, or if we should agree to the address now proposed, he may justly say so of the whole nation.

I shall readily agree, my Lords, that the present conjuncture is none of the most favourable for this nation. The state of affairs in Europe is, indeed, formidable. It is growing every year more and more so. Last year it was more formidable than the preceding, and this year it is more formidable than it was the last. What will at last become of us, I shall not pretend to determine; but I may pretend to prophesy, that our affairs both at home and abroad, will next year be more formidable than they are at the present; unless some wise and vigorous measures be taken for dispelling the cloud that hangs over us; and, I have very little hopes, that those who have been the chief cause of its gathering, will have either wisdom to dispel it, or fortitude to withstand its breaking upon us.

People may wrangle and talk long enough about our past measures. All public measures are of such a nature, that a great many things may be said against the best, and a great many plausible arguments may be made use of in favour of the worst. But, my Lords, the wisdom of public measures is best known by their ef-

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fects. The effects of some of our past measures begin now to appear, and those effects have such a dismal aspect, that I must thank God I had no hand in their causes: I must thank God that my testimony against some of them appears upon record, and will be a vindication of my conduct to distant generations, to those yet unborn, who, I am afraid, will feel the effects of some of our late measures more sensibly than we do. A rich and powerful nation cannot at once be destroyed by any internal cause: its strength cannot at once be annihilated, and its riches dissipated, by the worst measures it can pursue: but its strength and its riches may be wasted by degrees; and its destruction will be the more cruel and tormenting, by being brought on by piece-meal. This, I am afraid, is our case, and it is some alleviation of my grief, that I cannot be charged with having had a hand in it; but if I could, if I had approved of all our past measures, I should now from their effects begin to suspect I had been mistaken; and should be extremely shy of approving the future measures of those, whose past measures appeared by their effects to be wrong.

It is true, my Lords, our past measures have, for many years, met with a continued and uninterrupted approbation from a majority in each House of Parliament; but the approbation of parliament cannot make that right, which is in itself wrong; and the unfortunate state we are now confessed to be in, is an irrefragable proof, that all our past measures have not been right. The approbation of parliament is therefore so far from adding to the opinion people have of our past measures, that it derogates from the opinion our people ought to have of the penetration and integrity of parliament; and this must aggravate, instead of diminish, our present misfortunes; for if our people think they can put no trust, neither in the councils of those that govern them, nor in the wisdom and integrity of parliament, they can make but a faint resistance against any foreign power that shall please to attack them.

The present state of affairs in Europe, my Lords, does not proceed from the nature of things, but from the late measures pursued by France and us. Spain had dominions in Italy of old, larger than she has at present; and the emperor would then have been glad to have had a share of them: yet there was a constant friendship and alliance kept up between them for many years against France. It is the business of France to sow dissension between these two powers: it is our business to heal their breaches: in this the French have either outwitted, or frightened us. It was they that terrified us from accepting of the sole mediation between Spain and the emperor, at the treaty of Cambray: our accepting of that mediation could not have involved us in any war: if it had, the war would, in all human probability, have ended greatly to the honour and advantage of this nation. It was the French, I am apt to believe, that forged those dreadful secret Articles, said to have been agreed on between Spain and the emperor, by the treaty of Vienna. By that forgery they terrified us into that most extraordinary treaty at Hanover, and the still more extraordinary measures we took in consequence of that treaty.

The Ostend East-India company, my Lords, was a company we had no direct right to destroy. The Dutch had perhaps a right to oppose the setting up of that company: and if we had then a mind to pick a quarrel with the emperor, we might have said we were guarantees of that right; but all nations find pretences for not fulfilling the most express guarantees, when their own immediate interest does not enforce a performance. We have since found pretences for not fulfilling a guarantee, much more express than the Dutch could in that case pretend to; and even when our own interest seemed to enforce a performance. Besides, the East India company, set up at Ostend, would have interfered a great deal more, both with the French and the Dutch East India companies, than with that of England; therefore it was their business more than ours to have it destroyed; and yet the Dutch were so far from being principals in the treaty of Hanover, that they did not come into that treaty till long after, and that under great restrictions. If the Ostend company had been the only reason for finding fault with the treaty of Vienna, it was the Dutch and the French, not we, that should have raised armies, and sent out squadrons for compelling the emperor to give up that company, or for preventing the Spaniards from giving it any relief; but so far otherwise, that we took the whole expence, and the whole resentment upon ourselves: and by that means put a new stop to our trade with Spain, and greatly interrupted our trade both in America and the Mediterranean, while both

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the Dutch and the French carried on their trade in all parts of the world without interruption and with great security.

By this management, my Lords, we at last found we had run ourselves into a trap, and to get out of that trap, we run ourselves into another, by the treaty of Seville. Then to get out of this second trap, we run ourselves into a third, by the treaty of Vienna, in the year 1731; for even there, I must think, that we ought to have had several things settled with the emperor, before we had engaged in such an absolute guarantee of the Pragmatic Sanction; and how we got out of this third trap, I need not mention to your lordships; but I am afraid, that by our method of getting out of it, we have brought ourselves into a fourth, worse than any of the former.

By these measures, and such like, my Lords, it would seem as if we had endeavoured to unite France and Spain, and to detach from ourselves every ally we could depend on. If France and Spain therefore be united against us, it is we that have done it: if they are not, we have nothing to fear from Spain, though we had not one ally to depend on; and if we have our ancient alliance to depend on, I think, we have nothing to fear from both; notwithstanding the great pains that has been taken, to represent to us the unfortunate situation of the emperor and the Dutch. The emperor, it is true, would probably have been in a much better situation, if we had joined in the treaty with Spain and him, in the year 1725, instead of forming the alliance of Hanover against him; but, in spite of all the misfortunes, which our conduct, and the fate of war have brought upon him, he is still able to bring great armies of good troops into the field; and, therefore, if he is not ready to assist us, it is not for his want of power, but his want of inclination, which, for a reason every one knows, may not be so good towards us as it was heretofore. And as for the Dutch, they are, it is true, wise enough not to keep up in time of peace any greater naval force, nor any greater land army, than they have occasion for; but in case of a war, they could soon furnish themselves with both, and could raise great sums of money for that purpose, notwithstanding the debt they at present owe, and the taxes their people now pay. But as the whole system of affairs in Europe has been very much altered of late years, and as the Dutch lie more exposed than this kingdom to invasions from their neighbours, we cannot expect that they will join with us in any war, unless we can procure such an alliance among the powers upon the continent, as will be sufficient for supporting them against any power that shall attempt to invade them; and I am much afraid, that those amongst ourselves, who, by their late conduct, have contributed so much to the present formidable state of affairs in Europe, will never be able to procure such an alliance.

But I find, that not only the inability of our ancient allies, but the present formidable power of France, must be brought as an argument for our tamely submitting to the most heinous indignities. I shall readily grant, my Lords, that for almost these 20 years, France has been making a very good use of our blunders. I shall grant, that by so doing they have greatly increased their trade, and of late increased their dominions. But can we think that France would support Spain in a claim against us, which would be a bad precedent for themselves? Will France ever submit to have their merchant-ships searched on the open seas by Spain, or any other power whatever? Will France ever allow Spain to prescribe to them, what sort of goods their merchant-ships shall carry from one part of their own dominions to another? No, my Lords, they will never so much as treat of any such claim: they will never be so weak as to refer such a claim to be regulated by plenipotentiaries; and they know that, if they should assist Spain in establishing such a claim against us, it would soon be made a precedent for setting up the same claim against them. But suppose France should join with Spain in a war against us, if we are united amongst ourselves, and governed by a wise and vigorous administration, we have nothing to fear from both. They can attack us no way but by sea; and upon that element we are superior to both. Our trade has been carried on, and has flourished in time of war: it has flourished more in time of war, than it has lately done in what some amongst us have called a time of peace. We have a navy to convoy and protect our merchant men; and by a proper disposition of our naval force, we might make it dangerous for any foreign privateer to set her nose to the sea; from hence we may reasonably suppose, that few or no privateeers would any where appear against us: for as privateers are generally fitted out by private men for the sake of plunder, none such will be fitted out, when there is great danger, and

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little to be got; therefore, if the seas should swarm with privateers, it would be with privateers under British colours, which would oblige our enemies to give over all manner of trade; for if they should carry on their trade by single ships, they could not protect themselves against our privateers; and if they carried it on by fleets and convoys, they could not protect themselves against our squadrons of men of war. This would put an entire stop to their trade, which would of course be a great encouragement to the trade of this kingdom; and as neither France nor Spain could long support themselves without any trade, this alone would soon oblige them to submit to just and equal terms.

Our situation therefore, my Lords, with regard to foreign affairs, is not so terrible as it has been represented. It is, indeed, formidable; but it has become so, not by a vigorous but a pusillanimous conduct. And as to our domestic affairs, I shall most readily admit, that they are not in so happy a situation as they might have been. A great part of our debts might have been paid off, and most of our grievous taxes abolished, if for these 20 years past we had kept up no useless armies, nor fitted out any useless squadrons. It is this that makes our people uneasy; it is this that foments divisions among us. To be insulted and plundered by impotent neighbours abroad, and at the same time to be loaded with the charge of maintaining useless fleets and armies at home; fleets and armies which, instead of protecting us, serve for nothing but to prevent our taking vengeance of those that have injured us. This, I say, would make any people upon earth uneasy. Change but your measures, my Lords: let your fleets and your armies be a terror to your enemies, instead of being a terror to your own people; and you will find that every man will cheerfully pay those taxes that are necessary for maintaining them. Notwithstanding our bad management, we could still raise great sums for supporting a just and necessary war; and, by good œconomy, and reducing the expence of our civil government, we could apply a great part of what is now raised to the same purpose. The people will never grudge the expence they are put to in vindicating their just rights and privileges; but they grudge to see their substance eat up by useless officers, or pensioners, either civil or military; especially when they suspect, that those officers, and those pensioners, are kept in pay, for no other reason but to take their substance from them in a legal way.

Thus much, my Lords, I have been obliged to say of our present situation, both foreign and domestic, in order to shew, that, however low we may be brought by our past conduct, we are not yet brought so low as to be obliged to accept of a dishonourable treaty, or to allow our most important rights to be negociated away by plenipotentiaries; but, if it were so, if we were really in such a desperate condition, would it be proper for this House, could we in honour begin our session with any thing that might look like a compliment upon our past conduct? Ought we not upon such a melancholy occasion to begin with an Address in the most general terms; and immediately after, enter upon an enquiry into the State of the Nation, and into the conduct of those who had brought us into such a desperate condition? We may see, from what his Majesty has in his speech told us of the convention, that it is such a one as we ought not to have accepted of, unless we are in the most desperate condition. Therefore, we must, from what his Majesty has said in his speech, conclude, that we must either censure the treaty, or we must enquire into and censure the conduct of those, who have brought us into such a desperate condition, as to be obliged to accept of such a treaty. In these circumstances, can we put any thing into our address, that may look like an approbation of our past conduct? Can we mention any thing of our late conduct, especially this convention, which seems to be the coup-de-grace, I say, can we mention it, without testifying, in some manner or other, our disapprobation?

I shall always be for avoiding a war, if possible; but the question is not now about avoiding a war. My Lords, we have already made a war necessary: our past conduct has made it absolutely necessary. We have long ago, by our tame submissions, made the Spaniards think, that we dare not go to war. It is from hence, that all our late grievances have proceeded. We have submitted so long, and have fitted out so many peaceable squadrons, that they think we dare not strike a blow; and they are now so much confirmed in this opinion, that nothing but striking will make them believe we dare. While they continue in this opinion, we can expect no equal terms, nor can we expect they will observe any terms they agree to. Whilst one nation

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has such an opinion of another, I shall grant that general treaties, or general expressions in treaties, are as good as particular. The nation that has such a despicable opinion of its neighbour, will observe neither; but surely, we are not to confirm Spain still more and more in this opinion, by accepting of such general terms as we have already found to be ineffectual. We must strike a blow, if it were for nothing else but to make them alter thir opinion; and, when we do strike, I hope care will be taken to give them such a blow as they must remember.

But, my Lords, as the question now before us is not about what may or must be done, I shall enlarge no further upon this subject. I mentioned it only to shew the ridiculousness of our agreeing to negociate longer with the Spaniards about any thing; and, as his Majesty has told us, that by this Convention we have agreed not only to begin a new negociation, but to negociate about a claim which we ought never to have allowed to have been brought into any negociation; I say, as his Majesty has told us this, in his Speech from the throne, and as this is what, I hope, no lord in this House will approve of, as it is what, I think, we ought to censure, as it is what we must censure, otherwise the whole nation will censure us, therefore, I must think that the utmost complaisance we can shew in our Address is not to mention it at all; for which reason, I shall be for the Amendment proposed.

Lord *Hervey:*

My Lords; as the proposition now made to you contains no direct approbation, neither of the Convention, nor of any thing that has been lately transacted; as the expressions are so general, that, in my opinion, they do not so much as insinuate, that you do approve, or that you approve of any part of our late conduct; I cannot think that your agreeing to what is proposed will meet with any censure without doors: I am sure it can meet with no just censure.

My Lords, the wisest, the most necessary Resolutions we can come to, may be misinterpreted or misrepresented by some seditious or ill-designing men without doors; but, to such misinterpretations or misrepresentations we ought never to shew the least regard, unless it be to punish the authors, as often as they can be detected and apprehended. In all cases that come before us, we ought to consider and regard only our duty as members of this House; and as I think there is nothing in the Address proposed, that can be looked on in any other light, than as expressions of our duty and affection to our sovereign, I must think that my duty, as a member of this House, obliges me to agree to it without any Amendment. Our agreeing to the Amendment proposed would, in my opinion, look as if we had, at present, some secret and extraordinary reason for limiting and setting bounds to those expressions of respect and esteem for our sovereign, which are usual upon such occasions; and, as no part of his Majesty's late conduct can furnish us with the least shadow of reason for doing so; I shall be against our agreeing to any thing, that may make the people without doors imagine, or suspect that we have any such reason.

With regard, my Lords, to the Convention lately concluded between his Majesty and the king of Spain, as it is not yet laid before us, it cannot properly be brought into this debate. Both within doors and without, it ought to be judged favourably of, till some proof to the contrary appears; but if we agree to this Amendment, it will at least make the people without doors judge very unfavourably of the Convention; and I do not think we ought, without good grounds, to raise a suspicion of the conduct even of the administration. When I am convinced, that our ministers have done any thing that is wrong, I shall be as ready to disapprove, I shall be as ready to censure, as any lord in this House; but as it is for the public good, that our people should have a confidence in those that govern them, when they deserve it, I shall never be for agreeing to any thing that may lessen that confidence, till I am fully convinced that they deserve no confidence; which, I think, none of your lordships can be, from any thing mentioned in his Majesty's Speech. There is nothing in his Majesty's Speech that can make us judge amiss of the Convention, or of any of the measures made use of for bringing it to a conclusion. The searching of our ships upon the high seas, is not referred to our plenipotentiaries, nor is to be regulated by them, or by any other minister whatever. I do not know that the Spaniards ever directly pretended to any such right. They pretended, and they have a right to pretend, that none of our ships ought to carry on an illicit trade with their

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plantations. We pretend the same with regard to our plantations; and we have a mutual right to prevent this illicit trade, by all those means that are allowed by the law of nations; but the Spaniards have lately made use of such means, as are not allowed by the law of nations, such as are inconsistent with the freedom of our trade and navigation.

This, my Lords, is what we complain of: this is what we justly complain of: this is the present chief dispute between us and Spain, and this is not only a point that admits of a discussion, but a point that cannot be settled without a discussion. We must concert together what means they may make use of, what means we may allow them to make use of, for preventing an illicit trade between the subjects of the two nations. This is not to be settled at once, nor is the question to be answered by a Yes or a No. They must, on their part, take care, that no back door is left open for carrying on a contraband or illicit trade, under the pretence of a free and uninterrupted navigation; and we, on our part, must take great care, that no pretence shall be given to the Spanish guarda costas for interrupting our lawful trade in the American seas, by any measure they may think necessary for guarding their coasts against a contraband and unlawful trade. Your Lordships must see that this is a point which requires great deliberation; and this only is what is, by the present convention, referred to be regulated within a limited time by plenipotentiaries.

In this, my Lords, there is nothing dishonourable, there is nothing disadvantageous to the nation. If the Spaniards should insist upon making use of such methods, for preventing an illicit trade on their coasts, as are contrary to the law of nations, and inconsistent with the freedom or safety of our navigation in the American seas, our plenipotentiaries may, and certainly will, refuse to agree to them; and, if they propose no methods but what we may safely admit of, without exposing our navigation or commerce to any danger, surely your lordships will all be of opinion, that we ought to agree to their making use of such methods rather than go to war, and those methods must be settled and regulated by a treaty between the two nations. If this should appear to be the case, we should have no pretence for declaring war against them: such a war would certainly be unjust upon our part; because it would be, and by all Europe would be considered, as a war for supporting the smuggling trade, that may be carried on by our subjects in the Spanish West-Indies. It would be the same thing as if Holland or France should say to us, You shall not take the proper and necessary methods for preventing the running of wool out of the islands of Great Britain or Ireland; if you do, we will declare war against you.

There is nothing therefore, my Lords, in his Majesty's speech, that can induce us to think, that we must censure the convention lately concluded; and therefore, nothing that can prevent our agreeing to the proposition now made to us. It was last session the opinion of parliament, it is the opinion of every man of sense in the kingdom, that all peaceable methods ought to be tried for obtaining satisfaction and security, before we have recourse to force of arms. This cannot be done but by way of negociation; and in this negociation, the king of Spain has shewn that he is seriously inclined to do us justice, by his having already, by way of preliminary, agreed to give us satisfaction for what is passed. We could not desire a more substantial proof of his being inclined to give us security against future injuries, as soon as such a security can be contrived, as may be consistent with the security of his own dominions in America.

This security, my Lords, is to be granted, and all the other disputes between us settled, within a limited time; so that the negociation can be of no long continuance. A few months will determine, whether we are to have peace or war; and if we should at last be obliged to go to war, we shall be able to justify it to the whole world. People may call the Convention a Paper-Peace, or by what other name they please; but if ever we make peace, we must trust to paper, or we can trust to nothing. Negociations may be supported or enforced by military preparations, but they must be carried on in paper; and if we should go to war, 'tis to be hoped we should not always continue in that dangerous and troublesome state. The end of war is peace; and that peace must be preceded by a negociation, and confirmed by a treaty, both which must be in paper. I have often heard of a paper-war, and there are some amongst ourselves who seem to be fond of it; therefore I am surprized to hear them contemn paper negociations, or a paper peace. With respect to war, the term may be just; but, since

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paper was invented, I never heard of a peace that was concluded without paper; and therefore every treaty and every convention, may be called a paper peace, as well as the present: there can be no other sort of peace; and that which is now begun between Spain and us, I hope, will not only be soon concluded, but that it will be a safe, honourable and lasting one.

However, my Lords, as neither the Convention, nor any thing relating to it, can now come properly under your consideration, I need say nothing more of it at present. I hope I have shewn there is nothing in his Majesty's Speech can make us suspect that the Convention is either dishonourable or disadvantageous for this nation. When it is laid before us, we may judge of it with some certainty; and as there is nothing in the proposition now made to you, that can preclude any of your lordships from giving your sentiments freely about the Convention, when you see it, I think your lordships are, in duty to his Majesty, bound to agree to what is proposed without any Amendment.

Lord *Bathurst:*

My Lords; I shall most readily agree with the noble lord who spoke last, that in all cases we ought to consider and regard chiefly our duty as members of this House; for if we do so upon this occasion, we must, I think, agree to the Amendment proposed. As members of this House, my Lords, we are counsellors to our sovereign; and as such we are not only in duty bound to give him our best and most sincere advice, but also we are bound not to approach the throne, with any thing that may lead our King into a mistaken notion of the wisdom or conduct of those, in whom he has been pleased to place a confidence. Therefore if we have a bad opinion of the wisdom or conduct of any such person, we ought at least when we approach the throne to avoid saying any thing that may tend to make his Majesty believe that we have a contrary opinion. In this light let us consider the Address now proposed, let us consider whether the making of compliments, even upon his Majesty's late conduct, will not induce his Majesty to think that we have a good opinion of the wisdom of his ministers, especially if he be conscious that his conduct was directed chiefly by their advice. In my opinion our compliments upon this occasion may in this way have a very bad effect; and as I think sincerity more requisite in a counsellor than complaisance, I shall always be for neglecting or avoiding the latter, when I think it inconsistent with the former.

I shall likewise admit, my Lords, that we ought to shew no regard to the misrepresentations of seditious and ill-designing men; but at the same time it must be allowed, that we ought not to do or say any thing, that may lead the innocent and unwary into a mistake; especially when that mistake may contribute to make them think amiss of the wisdom, honour, or integrity of this House. The late Convention is not, it is true, as yet laid before parliament; but, my Lords, it is publicly known, and generally condemned. What will the public, especially the honest and sincere part of mankind, think of our returning unfeigned thanks to his Majesty for telling us that a Convention is concluded, which, even from what he says of it, will be greatly disapproved of by every man that reads his Majesty's Speech from the throne? My Lords, your returning unfeigned thanks for such a piece of information, may be a proof of your complaisance, but, I am afraid, it will be looked on by a very few as a proof of your sincerity.

My Lords, whatever the noble lord may have, I must confess I have, at present, an extraordinary reason for setting bounds to, or rather for entirely avoiding, many of those expressions which have of late years become usual on such occasions. It is not indeed a secret reason: it is a reason which will be guessed at without doors; and that it may not be mistaken within, I shall explain it to your lordships. It is because I think our ministers have made, and advised his Majesty to ratify a Convention, which, from what his Majesty has told us of it, appears to me, to be both dishonourable and disadvantageous. My Lords, considering the great and repeated insults which the crown and flag of Great Britain have met with, it was, I think, dishonourable to agree to any sort of treaty, without some signal reparation of honour: his Majesty does not so much as insinuate, that any such reparation has been stipulated. Considering the great and extraordinary charges we were last summer put to, occasioned purely by the delays the Spaniards made in offering us satisfaction, I think it was both dishonourable and disadvantageous to agree to any treaty, without stipulating satisfaction for some part, at least, of our charges: his Majesty does not say

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we have stipulated any such satisfaction: Nay, he does not say that we have stipulated a full reparation even for our losses. And, considering the dangerous and insolent claim, of a right to search our ships upon the high seas, which the Spaniards have not only set up, but of late frequently exercised, I think it was to the last degree dishonourable to begin to treat with them, till they had, by way of preliminary, given up this claim, in the most express and particular terms. Considering these things, my Lords, I think we ought, upon this occasion, to return to our ancient method of addressing, if it were for no other reason, but for shewing both to his Majesty and the world, that we are not satisfied with what has been done by his ministers. This we ought to take the first opportunity for shewing, and the manner now proposed is, I think, the most gentle manner we can chuse for doing it.

I am surprized to hear it said, that the Spaniards never directly pretended to a right of searching our ships upon the high seas. My Lords, they have not only pretended to it, but they have actually exercised it. They have exercised it in the most cruel and insulting manner. Nay, they have gone yet farther, they have seized and confiscated British ships, navigated by British seamen only, and sailing only from one part of the British dominions to another, for having goods on board, that are neither contraband, nor prohibited by any law in the world, but the particular law of Spain. Who gave them a power, my Lords, to prescribe to us what goods our ships shall carry from one part of our own dominions to another? Who gave them a power to subject our seamen or merchants to torture, or to punish them with loss of liberty and estate, though they have never perhaps been in any part of the Spanish dominions, nor committed any crime against the law of nations?

I know, my Lords, the pretence set up by the Spaniards for searching our ships upon the high seas, is to prevent illicit trade with their dominions in America: and surely, every one that searches a ship, either in port or at sea, must do it on some pretence, or for some end; but no nation ever did, or ever will, allow their ships to be searched on the high seas by the subjects of another nation, on any pretence, or for any end whatever. The Spaniards have a right, as every other nation has, to search, in a lawful manner, all ships that enter their ports. They have a right, as all other nations have, to visit ships at sea, in order to see that they are not bound to an enemy's port, with such goods on board as are made contraband by the law of nations, or by particular treaty; but this they must do according to treaty, they must not pretend to search, they must give entire faith to the bills of lading, and even when by them it appears, that there are contraband goods on board, they can seize those goods only; they have nothing to do with the ship or the rest of the cargo. The Spaniards have a right, by the law of nations, and by treaties subsisting between the two crowns, to prevent illicit trade between our subjects and theirs in America: they may seize any British ship that shall be found trafficking in any port or haven, possessed by them in America; but the ship must be in some such port or haven, and must be found trafficking, or found there without any pretence of distress, before they can seize her. They have no right to search any British ship upon the high seas, in order to discover whether she has been carrying on an illicit trade; and the right as well as method of visiting for this purpose, which is a right entirely distinct, and very different from the right of searching, remains yet unsettled between the two nations.

This, my Lords, is the mistake that has occasioned all our late disputes with Spain. Our ministers, or at least our negociators, have never properly distinguished between searching and visiting, and the Spanish ministers would not; because, while we continued puzzling and treating, they continued, and, I believe, will continue searching and seizing. But, if our negociators had understood what they were about, they ought to have insisted upon no search on the open seas, as a preliminary: and then they might have begun to treat about the method of visiting, and what might be looked on as signs or proofs of the ships being engaged in an illicit trade. A ship's being found hovering upon their coast, with broken bulk, and without any proper passes or Bills of lading, or being able to shew a just cause for her being there, or in that condition, might, for what I know, have been allowed as a good reason for seizure and confiscation. But in this case, I hope, no negociator would have allowed, that a ship's having any sort of goods on board, should be a reason for seizure or confiscation, if it appeared by the bills of lading, that those

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goods were taken on board, at any port or haven where such ship might lawfully trade. Every pretence of this kind ought certainly to have been given up, as well as the point of no search, by the Spaniards, before we had agreed to treat with them about the method of visiting, or about any thing that might be taken as a proof of a ship's being engaged in an unlawful trade; and, if the dispute between us had, at the beginning, been put into this light by our negociators, we might probably have prevented a war, as well as the many losses our merchants have met with: Whereas we have now, in my opinion, by the ignorance or the blunders of our negociators, perplexed this case so much, we have given the Spaniards such a mean opinion of us, and we have turned the affairs of Europe into such an unhappy situation; that, I am afraid, we must either agree to a dishonourable treaty of peace, or engage in a dangerous and unequal war. In such circumstances, my Lords, shall we say any thing to his Majesty, that may make him believe, we have a good opinion of the wisdom or conduct of those who have led us into such a dilemma?

As for what we have now thought fit to accept of, whether it has been called, or ought to be called a paper peace, is what I do not know. I believe it ought rather to be called a piece of paper. I am afraid, my Lords, it will be found to be nothing else. I do not expect to see any one article of it performed. The noble lord says, there can be no sort of peace but a paper peace. From what we have lately experienced one may, indeed, imagine so; but surely, there is as great a difference between a paper peace and a real peace, as between a paper war and a real war. A paper war is a war without any hostilities; a paper peace is a peace without any cessation from hostilities. A real war is a commencement of hostilities, a real peace is a cessation from hostilities. We have, of late years, made several treaties of peace with Spain, yet they have continued their hostilities against us, and they will, I believe, continue to do so, notwithstanding this convention, unless we keep a squadron in the West Indies, sufficient to prevent it.

Thus, my Lords, I have explained to you the extraordinary reason I have for thinking, that upon this occasion we ought to avoid making use of that method, or of those expressions, that have of late years become usual upon such occasions. And as this reason is founded entirely upon what his Majesty has told us in his speech from the throne, it is as strong as it could be, were the treaty itself now before us. What your lordships may think of it, I do not know; but with me it is a sufficient reason for agreeing to the amendment proposed.

The Duke of *Argyle*:

My Lords; in this debate I have heard many things which I highly approve of, particularly some things that have been mentioned by the two noble lords sitting over against me. As for that treaty, that thing, they call a Convention, I know it is a little irregular to say any thing of it, till it is laid before us; but I know so much of it already, that I can now say, I shall not approve of one article of it. However, my Lords, as there is nothing in the address proposed that can, in my opinion, be looked on as an approbation of that treaty; as it contains nothing but a compliment to his Majesty, and even that compliment more carefully expressed, than has of late been usual upon such occasion; and as I think it necessary upon the present occasion, and in our present circumstances, to shew the greatest unanimity amongst ourselves, and the utmost regard and affection for the person of our sovereign, therefore I shall be for agreeing to what is proposed without any amendment.

The Lords' Address of Thanks.] The question was then put upon the Amendment, which being carried in the negative without a division, the Address, as first proposed, was agreed to, and is as follows:

"Most Gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, beg leave to return your Majesty our humble thanks for your most gracious Speech from the throne.

"Amongst the many convincing proofs, which your Majesty hath given of your paternal and unwearied care of the rights of your people, nothing can fill their hearts with more grateful sentiments, than that sincere and affectionate concern, which you have so often declared, for the many hardships and injuries sustained by your trading subjects in America. The honour of your Majesty's crown, and the true interest of your people, are, and ever will be, inseparable; and as your Majesty hath, on all occasions, demonstrated to the

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world, that you have both equally at heart, it was impossible for us, not to have the firmest dependence on your zeal and vigilance for their real security and preservation.

"The gracious regard which your Majesty is pleased to express for the resolutions and advice of your Parliament, is a great instance of your royal goodness; and though your Majesty's constant desire, out of tenderness to your people, to avoid involving these kingdoms in the manifold inconveniencies of war, must incline you to approve the beginning with more moderate measures; yet we never entertained the least doubt, but that true greatness and fortitude, which inspire your royal breast, would induce you to exert your utmost power, in vindicating and protecting our undoubted privileges of navigation and commerce; and in doing justice to yourself and your subjects, if the conduct of the Court of Spain had made such measures necessary.

"We beg leave on this occasion, to offer to your Majesty our unfeigned thanks for your great goodness and condescension, in acquainting us from the throne, that a Convention is concluded and ratified between your Majesty and the king of Spain, whereby reparation is agreed to be made to your subjects for their losses, by a certain stipulated payment; and plenipotentiaries are appointed for regulating, within a limited time, all those grievances and abuses which have hitherto interrupted our commerce and navigation in the American seas; and that your Majesty will be pleased to order the Convention and separate Articles to be laid before us.

"We should fall short of those warm impressions of gratitude, which we feel in ourselves, as well as be wanting in our duty, if we did not return your Majesty our most thankful acknowledgments for your royal care, in making use of the confidence reposed in your Majesty, with no other view, but the general and lasting benefit of your kingdoms. Reparation for past injuries and losses, and effectual security for the future, founded in justice, and warranted by treaties, have been the great views of your Majesty, and your Parliament, in this national and important affair; and if those purposes can be attained, without plunging the nation into a war, it must give the truest satisfaction to all your faithful subjects, who cannot but be as desirous to preserve the peace, as they are able and ready to defend and vindicate their rights, against the encroachments of all aggressors.

"We are deeply sensible, how unbecoming and pernicious it would be at any time, to suffer either prejudices or animosities to mix themselves with parliamentary deliberations; and your Majesty's gracious recommendation to us, particularly to avoid them at this important conjuncture, cannot fail to awaken in us a more than ordinary caution on that head. Great Britain hath but one common interest, consisting in the security of your Majesty's person and government, and the welfare and happiness of your people: and when your Majesty is pleased to exhort us to unanimity, it is only calling upon us to unite for our own preservation. We therefore beseech your Majesty, to accept the strongest and most affectionate assurances, that we will zealously and cheerfully concur in all such measures, as shall be most conducive to those great and desirable ends."

The King's Answer.] His Majesty gave this Answer:

"My Lords, I thank you for this dutiful and affectionate Address, and for the dependence you express on my care, to make use of the confidence you repose in me, for the general benefit of my people. You may rely on the continuance of my endeavours to perfect the accommodation with the Court of Spain, in such a manner, as may be most for the honour of my crown, and the true interest of my kingdoms; and that I will pursue such measures, as shall appear to be most conducive to the future security of the trade and navigation of my subjects."

Debate in the Commons on the Address of Thanks.] Mr. Hanbury Williams moved an Address of Thanks* to his

* "When the Commons returned to their House, great debates arose upon the words of the address. The anti-ministerial party were, in fact, for leaving out even all mention of the convention, or mentioning it with a censure. Sir John Barnard took notice, that the speech itself was most absurdly worded, because by that, plenipotentiaries were to regulate the grievances and abuses that had happened to the British subjects, from the insolence and cruelty of the Spaniards: to regulate abuses, he said, implied a continuance of them, but only under another form: and that the whole matter of the convention implied so much. In short,

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Majesty for his most gracious Speech. The motion was seconded by Mr. Fane, and produced a debate.

Sir *William Wyndham* said:

Sir; though no gentleman in this House has a greater regard for his Majesty than I have, nor would be more ready to agree to every expression of zeal and duty to his person, yet I can by no means agree to an Address in the terms of this motion. In the first place, Sir, give me leave to observe, it looks a little suspicious, that the meeting of Parliament has been put off at this critical and important juncture for fourteen days. Though I am not very apt to believe vulgar reports, yet I am sorry to say, it is but too probable, that the Court of Spain had dared to trifle with us in a most egregious manner, notwithstanding the resolutions both Houses came to last session; and that they could

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he was against all expressions that looked like the least approbation of so destructive a measure; and when Mr. Hanbury Williams made a motion, as usual, in terms of the speech from the throne, a motion was made, to make use of no more of it than just "to thank his Majesty for his speech, and to assure him, that the house will grant him such supplies, as shall be necessary for the honour and security of his Majesty and his kingdoms, and endeavour to avoid all heats and animosities in carrying on the public business in that critical conjuncture." But this motion was objected to, as being both unreasonable and disrespectful, especially as the convention had not yet been regularly laid before the house. The address, therefore, moved for by Mr. Hanbury Williams, was agreed to after long debate, by a majority of 230 against 141. A debate of the very same kind happened at the same time in the house of peers, where many harsh things were thrown out, both against the speech and the convention. But at the close of the debate, the earl of Scarborough and the duke of Argyle, though they declared their disapprobation of the convention itself, thought it would be indecent to make no mention of it in their address, and that unanimity amongst themselves was of the utmost consequence at that important juncture. The Address proposed by the court-lords was agreed to without division." Tindal.

"The motion for an Address encountered violent opposition in both Houses. In the Lords, however, it passed without a division, by the interposition of the earl of Scarborough and the duke of Argyle, who, though they declared their disapprobation of that thing called a convention, yet conceived it would be irregular to mention it till it was laid before them, and thought that unanimity was highly necessary at the present juncture.

"In the Commons, an address being moved for as usual, in the terms of the speech, sir William Wyndham objected to all expressions which might appear an approbation of the convention, and therefore proposed omitting the paragraph which alluded to it, and merely to thank the king for his speech, and to assure him that the house would grant the necessary supplies, and to endeavour to avoid all heats and animosities.

"Sir Robert Walpole, in a long and able speech, defended the conduct of ministers in the negociation with Spain. He declared that the accommodation was attended with all the advantages which the most successful warfare could have procured. He shewed, under the existing circumstances, it was more prudent and beneficial to avoid extremities; that all the commercial nations, even France itself, did not object to the claim of searching and seizing their ships, when taken in the act of carrying on illegal trade. He then extolled the convention, with a wantonness of praise not usual with him, and declared he thought it his peculiar happiness, that the nation would deem the influence he possessed, the principal means of its ratification; and that he should not be sorry if it was considered as a measure entirely his own. He finally observed, that it was unfair to decide on the merits or demerits of the convention, before it was known; that in a few days it would be submitted to the House, when a candid discussion would take place; and that as there was no reason to suppose it contrary to the known interest of the nation, he saw no ground for opposing the address. He reminded the House, that the last session he declared himself answerable for the measures pursued by government, while he was minister; he was prepared to make good his promise; all he desired was a candid hearing, and that he hoped would not be denied. He concluded, by opposing the amendment, and supporting the original address.

"He was answered by Lyttleton, sir John Hynde Cotton, and sir John Barnard, who took notice that the speech itself was most absurdly worded, because it stated, that plenipotentiaries were to regulate the grievances and abuses that had happened to the British subjects, from the insolence and cruelty of the Spaniards: now to regulate abuses, he said, implied a continuance of them, but only under another form.

"The motion for the address was carried by 234 against 141; a majority which inspired the minister with unfounded hopes of a quiet and easy session, for on the contrary, every measure was adopted, and every expedient resorted to for the purpose of harrassing administration, and throwing an odium on the measures of government." Coxe's Memoirs of sir R. Walpole.

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not be brought to make the least concession in our favour, till we had given up every thing that we ought most strenuously to have insisted on. I say, Sir, it is but too probable, that this is the true reason why we did not sit fourteen days ago. The Spaniards knew well, that something must be done to satisfy the expectations of the parliament and the nation; they knew that our ministry would purchase this at any rate; they knew at the same time, by repeated experience, that we are so far from being fond of fighting, that we would give up almost any thing rather than enter into a just and necessary war. Therefore they put things off from time to time, till they brought us to the very critical day, I may say hour, when it was necessary for us to grant them their own terms. I beg leave to give my reasons for thinking so, and these reasons shall be founded upon the greatest and most unquestionable authority, the words of his Majesty's Speech. We are told there, Sir, that a Convention with Spain is concluded and ratified; and that in consequence of this Convention, plenipotentiaries have been nominated for redressing within a limited time all our grievances and abuses. I have no manner of design to forestal the opinion of the House upon this Convention; I hope we shall be soon favoured with seeing it, and I wish that it may be found a good one. But I beg leave to take notice, that our ministers would have shewn a much greater regard for the sentiments of Parliament than they have done, if this Convention had been communicated to the House before it was ratified. By this means, Sir, we should not have been put to the ungrateful task of perhaps condemning a measure which has had the royal sanction, and which is now in some sort irrevocable. But how have our ministry managed? Why, Sir, they put off the meeting of Parliament for fourteen days, in order to throw this, I may call it, unsurmountable difficulty in our way; and then we are told, that this Convention is concluded, not only concluded but ratified, and not only so, but that plenipotentiaries are appointed to see it executed, and to carry it into a definitive treaty. This is a very bold stroke, especially as the Parliament has already pointed out what our rights are. If regard has been had to the resolutions of Parliament, I can see no manner of reason for appointing plenipotentiaries for settling all matters in dispute. The Parliament, I think, has already done that, by expressly ascertaining what the rights and privileges of this nation with regard to our navigation in the Indies are. Therefore I cannot conceive what these gentlemen our plenipotentiaries are to settle, unless they intend, by virtue of their full powers, to give up some part of what the Parliament has already found to be the undoubted right of this nation. I am certain, Sir, that if they had made the resolutions which the Parliament came to last session, the foundation of their demands; if they had discovered a resolution to break off all treating, rather than depart from the sense of Parliament, either a definitive treaty might have been obtained, or we should by this time have known the worst. But by what appears from his Majesty's Speech, this Convention is no other than a preliminary; and in all probability a very bad preliminary too; and the minister has ventured to clothe some of his creatures with full powers to give up the rights of this nation; for they may do it, if they dare.

I know, Sir, it will be said, that if these plenipotentiaries should act in so scandalous a manner, they are liable to the censure of this House. But will it be any satisfaction to our injured country, that two or three persons, who have but very little property, and perhaps as little reputation to lose, should fall under the censure of this House, after they have shamefully sacrificed her most valuable privileges. Besides, Sir, how easy is it for a state offender to screen himself from the justice of his country by flying from it, when he has made any step to its disadvantage or dishonour? This is no uncommon thing; and I should not at all be surprized, even if the authors, whoever they are, of this convention, should find it necessary to keep those underlings, whom they have employed in concluding it, at a distance, and not suffer them to return, lest they be obliged to discover some secrets which certain gentlemen may think necessary to be concealed. Should a dishonourable definitive treaty be concluded upon the footing of this convention, our most valuable rights, even the independency of this Crown, may be given up, without our being able either to save them, or to bring the authors to condign punishment. I remember to have heard or read, that the gentleman who concluded the American treaty, the observance of which is all we now contend for with the crown of Spain, and which was in those days looked upon

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as a very bad one, never thought fit to return to England, for fear of a parliamentary censure.

From these considerations and many other, I believe gentlemen will find it no easy matter for them to agree to the present motion. With what propriety, Sir, can we congratulate his Majesty on his success, in concluding a measure, before we know what kind of a measure it is. No gentleman here can, or at least will, take it upon him to inform this House, what are the particular heads of this convention; what are the sums stipulated to be paid, or in what manner our grievances, which have been so fully proved in Parliament, and are so loudly complained of by the nation, are to be redressed. If we can suppose the sum that is stipulated by this convention, to amount to one tenth part of what we have suffered by the Spaniards; if we can suppose that there is a clause in the convention, which leaves all the former treaties betwixt us and Spain at the mercy of those plenipotentiaries; if we suppose farther, Sir, that some part of our rights and possessions are actually given up by this convention, will any gentleman say that we ought to agree to this motion, and return thanks for measures, not only before we know what they are, but after the strongest reason for presuming that they are bad. I hope therefore, gentlemen will think it sufficient, if we shall upon this occasion, confine ourselves to those expressions, that are respectful and dutiful to his Majesty's person, without adding any thing in our Address, that may look like an approbation of this convention. For this purpose, I think, we ought to leave out all the words of this Address, but the first and last paragraphs.

Sir *Robert Walpole*;

Sir; the importance of this juncture, the expectations of the House, and the share I have the honour to bear in his Majesty's counsels, make it proper and necessary that I should say somewhat on this occasion: but at the same time, I own that I am able to say nothing that can give any gentleman, who judges coolly and impartially, any additional conviction of this Address without the Amendment being proper, besides what he must receive from reading the words of the Address itself.

We have now, Sir, entered into a debate about a measure, the event of which must, in some degree, influence posterity in the judgment that they shall form of the wisdom of the British government during his present Majesty's reign. The wrongs we have received from Spain have been great, and the present age expects that the satisfaction we are to receive, or the revenge we are to take for these wrongs, will be great also. Future ages, Sir, in case the present is disappointed in this expectation, will look upon us as a dispirited, corrupted, mean people; in short, they will look upon us in the same light in which some gentlemen take the liberty to represent the ministry. But, Sir, if on this occasion his Majesty's ministers have obtained more than ever on like occasions was known to be obtained; if they have reconciled the peace of their country to her true interest; if this peace, Sir, is attended with all the advantage that the most successful arms could have procured, as I hope to make appear, I will be bold to say, that future ages, always impartial in their censure or praise, will consider this as the most glorious period of our history, and do that justice to the counsels which have produced this happy event, which every gentleman who divests himself of passion and prejudice is ready to do, and which I have great reason to believe the present age, when rightly informed, will not refuse.

This House and Parliament, Sir, is his Majesty's greatest, safest, and best council. A seat in this House is equal to any dignity derived from posts or titles, and the approbation of this House is preferable to all that power, or even Majesty itself, can bestow: therefore when I speak here as a minister, I speak as possessing my powers from his Majesty, but as being answerable to this House for the exercise of those powers. I have often, Sir, on other occasions, professed my readiness to submit to the justice of my country, and shall cheerfully acquiesce in the judgment this House shall form of our negociations; because while I do that, I am sure to suffer no wrong. But, as the best and most equitable intentions may be perverted by misrepresentation of facts, and as the most impartial mind is susceptible of prejudice when artfully instilled, I hope it will be looked upon as a proper piece of justice done to myself, if I shall endeavour, by stating one or two facts, to set this affair in a light that may remove all objections.

The chief consideration, Sir, that arises from the present question is, Whether, as Great Britain is now circumstanced, it had

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been more proper for the government to have entered into a bloody and uncertain war, or to lay such a foundation for a peace, as no gentleman can regularly pronounce is not a safe and honourable foundation. In order to consider this question rightly, we must take a view of the advantages we could propose to ourselves in case of a war with Spain, and in case that war was even to be successful.

I know that gentlemen, who are otherwise very candid upon this point, are apt to imagine, from the military glory of this nation, that our arms are invincible: and I own, Sir, that this is a most prevailing argument, especially in a popular assembly. There is somewhat in it, that flatters the ambition which people generally entertain of acquiring fame and riches by the same means that raised their ancestors. In the history of our wars with Spain, we see great navies defeated, great treasures, and still greater glories, acquired by our soldiers and sailors. But in the mean while, we never reflect that the situation of affairs betwixt Britain and Spain is entirely different from what it then was. Spain at that time was the dread, was the envy of Europe; as she had then powerful armaments, which excited the courage of the brave, and immense treasures, all her own, that prompted the avarice of the rich. She had not one ally in the world who bore her good-will enough to assist her with any zeal, and her views were so dangerous, that her enemies borrowed courage from despair.

At present, Sir, if I may advance a paradox, her greatest security lies in her visible weakness. The preservation of the Spanish monarchy entire and undismembered, has, for almost an age past, seemed to be the general inclination of all the powers in Europe, because, were the riches that flow into Spain, to fall into the hands of any other people, the rest of Europe must soon be drained of all its treasure. Whereas, at present, there is scarce any nation in Europe, who has not a larger property in her plate ships and galleons, than she herself has. It is true, all that treasure is brought home in Spanish names, and the king of Spain generally imposes a large indulto upon it; but Spain herself is no more than the canal through which these treasures are conveyed all over the rest of Europe. Should therefore we pretend to seize these treasures, we could not fail to meet with a powerful opposition. Even our best allies, Sir, I am afraid would look with a very indifferent eye upon such a step, and be the first that would enter their complaints against it.

But I have heard it objected, that if this is a good reason now for our not endeavouring to distress Spain by intercepting her treasures, the same reason will always exist: since the other powers of Europe will always have a property in these ships; therefore there never can be a time proper for us to do ourselves justice in case we are denied it by Spain. I think this argument rather plausible than solid. For my own part, Sir, I am of opinion, that though this would not have been the proper time for such a step, yet it is not impossible but that a time may come when such a step may be proper and necessary. But give me leave to say, that this necessity can arise only from our suffering more from the violence and injustice of the Spaniards, than we can suffer from a confederacy of all the rest of Europe taking their part. It never can be proper, Sir, for us to seize the American treasures, until their court shall absolutely deny us justice, and tell us in downright terms, that she is resolved to have no regard to treaties, and that she is determined to do all she can to ruin our trade, and to disturb us in the possession of our American dominions. If she should proceed, Sir, to that height of injustice, we might very naturally conclude, that here our all was at stake; that if we should look tamely on while our American commerce was ruined, our European must soon follow; for there is not a petty republic, a petty prince, in all Europe, who will pay any regard to a people who suffer such insolence, such injustice, without resenting it; and that, if all our trade is gone and ruined, the nation is in effect undone. Therefore we have nothing in the worst event to fear, worse than what must unavoidably happen if we suffer this treatment any longer. I say, Sir, when we shall be brought thus low, and when the Spanish insolence shall run so high as to render this way of reasoning just and natural, then is the time for us to venture upon so bold, I had almost called it so desperate, a step as the seizing the Spanish treasures. But will any gentleman take upon him to pronounce, that the present juncture comes within this description, or that its circumstances admit of any parallel with those of the time I have just now figured? no, Sir, Spain, far from supporting any just claims that are inconsistent with the interest of this nation, has actually

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relinquished those she before set up: she has actually, I say, Sir, relinquished claims which she maintained for these threescore years past. I believe I may go higher, I may say, she has now, by this very convention, relinquished a claim which she has maintained ever since she possessed her American dominions. But that is not all, she has not only given up this claim, but has paid damages for the injuries which the British subjects have suffered, in consequence of her pretended rights, as founded upon this claim. This, Sir, is such a point gained, that gentlemen must be wilfully blind, if they do not see that any administration in Britain must have been mad, had they desperately plunged their country into a war, while it was in their power to conclude a peace, where this great, this decisive concession was to serve as the foundation. Upon what grounds, Sir, could we have proceeded to extremities with Spain? had we pretended that, because some of our merchants had suffered by the injustice and rapaciousness of her subjects, therefore we were resolved to be deaf to every other way of making up the difference that followed upon this injustice, than that of the sword: had we made such a declaration, and such a declaration we must have made if we had gone to war, would not Spain have had a very plausible pretext for interesting the other powers of Europe in her favour? might she not then have told the French court, "It is true, some of the British merchants suffered by my subjects, but without my knowledge, and against my intention; but I was no sooner informed of the true state of the affair, than I offered her all imaginable satisfaction; I even offered to indemnify the merchants for the losses they have sustained; I offered to tie myself down to a strict observance of treaties; but it seems that these concessions do not answer the views of Britain. She therefore certainly entertains some dangerous design; she is forming some project that may be destructive to your interest, and which I shall never be able to disappoint but by your means."

This, Sir, I say, would have been the language of Spain, had the administration here rejected all her offers, and turned its back upon the most favourable proposals. The court of France, in the mean time, shews too plainly, by her own conduct, what her sense of the matter is. She shews plainly that she is of opinion, the Spaniards may seize a ship on the open seas, and that such a ship, if concerned in an unlawful trade, may be brought into the Spanish ports and there condemned. I say, that France is plainly of that opinion, because we know that ships belonging to her were actually taken and confiscated by the Spaniards; nay, Sir, I can venture to affirm, that seizures have been made of French vessels, as much in violation of all treaties and justice, as any British subject ever yet had reason to complain of; but we never heard that France reclaimed those ships, I do not know whether that happened because her ministry was of opinion that these seizures were justifiable, or because they thought it would be impolitic to embroil themselves with Spain on account of any private quarrel. I do not at all deny, that we have suffered a great deal more from the Spaniards than the French have; but I mention this to inform the House that, in all appearance, the French would have been our enemies, had we gone to war before we had treated; and if we had rejected all terms of accommodation, or insisted on those terms that no people, not absolutely reduced, would have granted.

Even the Dutch, Sir, who depend as much upon trade as we do, have never thought fit to come to extremities, though their sufferings are as great, and as unjustifiable as ours are. They have been contented to make applications, and repeat remonstrances at the court of Spain; but we have never yet heard of their being able to obtain so much as a cedula to American governors for the restitution of one ship of theirs unjustly seized. We, Sir, it is well known, have obtained many; and if some of them had not the desired effect, I am convinced it was owing more to the arts of the governors themselves, than to the intentions of the Spanish court. So that I cannot see, upon what foundation gentlemen proceed, when they represent Britain as under an administration so weak, that she has been for these 20 years past forced to put up with the grossest affronts and injuries, without the least satisfaction or reparation. Had the Dutch obtained as much as we did even before this convention, I am convinced, that they would have been perfectly contented. I am convinced their government would not have indulged the complaints of private traders so far, as to make a public enquiry, which might have occasioned a rupture; nor would their ministers have insisted on immediate satis-

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faction. They know too well, Sir, that very great abuses are daily committed in the American trade; they know too well that public complaints and remonstrances might produce an enquiry that would turn out no way in their favour.

After what I have said, Sir, is it to be imagined that any of our neighbours would have been well pleased, had we all at once, without hearing, or at least weighing the terms proposed by Spain, come to extremities? The French, so far from countenancing such a conduct in us, would not, I am afraid, have been prevailed upon to remain neutral. And however gentlemen may flatter themselves, however great an opinion they may entertain of the power of this nation, we are not invincible. The French have men; they have money; they have allies to support them. The Spaniards have revenge; they have pride; they have resentment to gratify. Gentlemen will not find that it would have been an easy matter for us to have grappled with both these powers, supported by such advantages, and prompted by such motives. I believe our land forces are equal to any body of men in the world of the like number; but I have not so good an opinion of them as to venture the honour and interest of a whole kingdom on the bravery and skill of the small handful which we keep, against the vast bodies of well-disciplined veteran troops, which France and Spain in conjunction can bring into the field.

As to the Dutch, they in all probability would have been determined by the conduct of France, in case we had come to an open rupture with Spain. Every gentleman here is sufficiently sensible of the present low circumstances of that republic. The late glorious war left them prodigiously involved in debt; this debt obliged them to encrease their taxes, and disband all their troops, excepting what are absolutely necessary to keep up their garrisons. Their fleet lies in their harbours in a very bad condition, and requires more money than they can furnish to rig it out. Besides, Sir, it would at this time have been extremely dangerous to herself, had she acted for an interest separate from that of the French; who have a fine army on foot, which they can with almost no expence or danger march down into Holland. At this time, Sir, the emperor is no longer in a condition to give any diversion that way. His own army and finances are in the utmost disorder. And the other powers, who may be inclinable to prevent such an attempt, lie at too great a distance, and have too strict engagements with France, for us to expect any diversion from them. Thus, Sir, if we argue upon the principles of reason, if human foresight can determine any thing, if the strongest probability is to have any weight, it must have been impolitic and imprudent in us to have hazarded a war, so long as we had any prospect of concluding an honourable peace.

I shall now beg leave, Sir, to consider what effect a precipitate declaration of war must have had at home. In the first place, our whole Spanish trade must have sunk at once; our Portugal trade must have been greatly embarrassed, and our American very much endangered. Suppose that the administration had joined last session in the popular outcry for war; and that a vigorous war was actually entered into; can any gentleman say that this would have stopt the mouths of those who are resolved to find fault at any rate? In such an event, may we not easily imagine to ourselves that we hear a violent opposition man declaiming on the benefits of peace; telling the world that a trading people ought by all manner of means to avoid war; that nothing is so destructive to their interests, and that any peace is preferable, even to a successful war? He might argue, the Spaniards have offered fair and reasonable terms; they have even offered to indemnify our merchants for the losses they have sustained; they have offered an amicable meeting to adjust all points in difference; they have offered to come into all reasonable terms; yet our ministry, rather than listen to what might have proved so beneficial to the nation, has blundered into an expensive and hazardous war.

This, Sir, I own would have been blundering; and those gentlemen, once in their life-time, in such an event, would have applied that term right. It requires no great art, no great abilities, in a minister, to pursue such measures as might make a war unavoidable. That is a very easy matter; but, Sir, how many ministers have you had, who knew the art of avoiding war by making a safe and an honourable peace? How many kings, Sir, have you had, who knew how to make choice of such ministers? If those gentlemen who are very fond of parallels desire to know what figure we make in the affairs of Europe at present when compared with

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the figure which we made in former times, let them dip into our history under James the 1st, a reign famous for negociations and treaties: let them compare, Sir, the insolence of Spain at that time, with what it is now: let them compare the resentment we then shewed, with the manner in which we have borne their late treatment. If any gentleman will do this, and do it impartially, he will find that the very worst treaty made under his present Majesty, is more advantageous and more honourable, than the best that was made under that long pacific reign. It will perhaps be thought that the parallel ought to be run with the days of queen Elizabeth, rather than with those of king James. But, as I observed before, that is a very false delusive way of reasoning. So many circumstances concurred to raise the reputation of that princess, that it is next to impossible they should ever again meet in one person, and at the same time. She had to do with neighbours, every one of which was of a different interest from another: by artfully fomenting their differences, it was easy for her to keep the balance of power in her own hand. The many open and secret attempts made by traitors at home upon her life and crown, endeared her person to her subjects; and her ministry, who found their own interests inseparably connected with hers, run all risques in her service. It is true, they were great and wise men, and they served a great and wise mistress. But still, Sir, give me leave to say, that a great deal of the amazing success that attended her reign was owing to fortune. Had not the winds and waves fought more effectually for her at the time of the Spanish invasion, than her sailors and soldiers, though it must be owned they were very brave men, I am afraid the character of her reign would have suffered, and that not a little. The world, Sir, is very apt to judge of measures and characters by events, and as events depend on fortune, it is the part of a wise minister to leave as little as possible to fortune: too much must be left to her, even in the most cautious manner a minister can act. In the negociation we are now considering, Sir, had we acted in any other manner that we have done, we must in effect have left every thing to fortune, since all the reparation we could expect, by any other means than those of negociation, depends upon a thousand accidents, and is liable to a thousand disappointments. Therefore give me leave to say, Sir, that the success which one ministry has met with from the favour of fortune, is no reason why another ministry should tread the same dangerous paths, especially when they can compass the same ends by the more safe and more certain way of negociation.

Upon the whole, Sir, I will venture to say that this negociation has been the best conducted, and the most happily finished, of any we meet with in history. For we have not left the payment of our merchants to the arbitration of commissaries, or plenipotentiaries; we have not accepted of an order upon any of their chambers in Spain; but we have expressly tied down his Catholic majesty himself; we have obtained his great seal as a security for their payment; and so tender was his Majesty of his subjects' property, that his ministers refused to enter into any negociation relating to this affair, till such time as reparation for the losses of our merchants was fully and expressly stipulated. Such an express and full stipulation is obtained, to the great confusion, I believe, and disappointment of some amongst us, who, rather than not see their country involved in a war, would be content that she were involved in calamities, and embroiled with every one of her neighbours. These dispositions are more dangerous to our interests than all the force of Spain; and it must be owing to these dispositions, if the endeavours of his Majesty for the peace and happiness of Britain are rendered ineffectual. As yet we may thank Heaven, they had no other effect than to unite the friends of our most happy establishment more firmly together; and while they continue united, I hope the efforts of malice and faction will be always disappointed.

But it is somewhat very surprising, Sir, that this address should meet with such opposition: for I do not see any thing in it that can in the least preclude gentlemen from making what objections they please to the convention, when it shall be laid before them. We thank his Majesty for the success of his royal endeavours in concluding a convention, whereby reparation is obtained for his injured subjects, and plenipotentiaries appointed for regulating all those grievances that have hitherto interrupted our commerce and navigation, and for removing all future causes of complaint. Are not all these very desirable consequences of a negociation? Is not reparation for past injuries

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one of the two points we have always insisted on? And what can be more done towards obtaining security against future encroachments, than to remove all future causes of complaints by proper regulations? But, say gentlemen, this is only referred to plenipotentiaries, whereas it ought to have been positively insisted upon, as a foundation to all future negociations upon that subject, that the Spaniards had no right whatsoever to search our ships upon the open seas. Really, Sir, no gentleman in this House would have been better pleased than I, had Spain thought fit to have given up this point by a clear and positive renunciation. But when two people treat upon an equal foot, I believe it very hard to produce any instance wherein one party could be brought to give an absolute renunciation of a point which they once insisted on as their right, and to give such a renunciation too, even before it was so much as examined into, whether they had such a right or not. The Spaniards have usurped a claim of searching our ships for many years past; for many years, Sir, before the present august family came to the throne; for many years before I was concerned in public affairs: and are we to imagine that they will give up this claim by a positive renunciation, even before we give them any reason why it ought to be abolished? I say, Sir, are we to imagine that Spaniards will do this, a people who are obstinately fond of power, and even of the shadow of it? a people scrupulously attached to formal enquiries and discussions? I do not know, whether after a war successfully carried on by us, we could have made them yield to any treaty to which a positive renunciation was to be the preliminary. At least I remember to have read, that notwithstanding their being reduced to the lowest, the most despicable circumstances, at the time the American treaty was concluded; yet all the art, all the threatening, all the representations of our court and ministry at that time, could not induce them to confirm our right to Jamaica by a positive renunciation of that island in our favour. How unreasonable then is it to expect that Spain would have hearkened to any accommodation, where it was laid down as a preliminary, that she should give up a claim which she had immemorially possessed, and which she looked upon, perhaps, as absolutely necessary to the preservation of her interest in America?

Thus, Sir, I have, I hope, set this important objection in a clear light. I do not know what effect it may now have upon gentlemen, but the reasons I have given against the peremptory method of proceeding had such a weight with me, that I did not make the least difficulty in agreeing to this convention. I will venture to say that when it was concluded, I thought it my happiness that the nation would look upon the influence I have in the government as one of the principal means that brought it about. Nay, I should not be sorry if it was looked upon as a measure entirely my own. But, Sir, whether this convention is a good or a bad measure, a few days will determine. Whatever judgment this House may think fit to pass upon it, I hope the address, as moved for without the amendment, will be agreed to. We have great reason to believe that this convention is for the honour and interest of the nation; we have as yet no reason to believe the contrary, and therefore no reason to oppose this address. Last session, Sir, I remember that I undertook to be answerable for the measures which the government shall pursue while I have the honour to be a minister. I am prepared to make good my promise. I desire no more than a fair hearing: and this I hope will not be denied me. But, Sir, if gentlemen may, by agreeing to the amendment, raise a prejudice without doors against the convention, and perhaps with such a ferment, as would in the event give them great uneasiness: in such a case, many who, I know, are otherwise friends of the government, would be sorry to find themselves instrumental in heating the people to such a degree, as to admit of no reasoning upon this subject, and thereby render a war unavoidable. Such, Sir, I am afraid would be the consequence of our agreeing to this amendment; and it is a consequence which every man who understands, and desires to promote the interest of his country, wishes to see avoided.

Mr. *Lyttelton*:

Sir; I am very ready to agree, with the right hon. gentleman, that posterity will judge of the figure which Britain makes in the affairs of Europe from her behaviour at this juncture: there is no doubt that if we have entered into a scandalous negociation with Spain, posterity will think that we have a very weak ministry. But let the late negociations that have been carried on with that court be never so ho-

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nourable for this nation, I am afraid posterity will not be persuaded that we are at present blessed with a very firm disinterested ministry. Taking the right hon. gentleman's account of this negociation to be genuine, and that we have made a safe and an honourable Convention, I believe posterity will be apt to enquire by what means, by whose management, the reputation and power of Britain were sunk so low as to be forced, after suffering a series of insults and injuries during almost twenty years, to think herself happy in procuring common justice to her subjects from a power always found inferior to her own. Posterity, I am afraid, Sir, will be at a loss to account for the management that reduced Great Britain so low as to be obliged, even before she could obtain this bare piece of justice, to fit out a fleet at a vast expence, to send this fleet abroad, to keep it on the coasts of Spain, and at last, to take up with a Convention, wherein no regard has been had to all this vast expence, and not a shilling stipulated to defray it. Sir, I think that when the right hon. gentleman was displaying his impartiality and candour, he should have favoured the House with his thoughts in what manner posterity will account for all these circumstances, without taking it for granted, that some part of the blame lies at the door of our ministry.

The same right hon. gentleman, in stating his arguments against the Amendment said, that all history could not furnish an instance wherein a people not only owned themselves in the wrong, but actually paid damages. I cannot say, Sir, that I can at present bring particular facts and parallels to disprove this assertion; but I dare say there is no gentleman ever so little versed in history, who does not know that there is nothing more common than for one nation to indemnify another for the expence of a war, or even the preparations of a war. Let us consider, Sir, how either of these cases differs from what lately was the case betwixt us and Spain. We were not, it is true, in a state of open war; so far from it, that the Spaniards were, during the time of their most violent depredations, our faithful allies; we caressed them, and they were so very obliging to us, that they accepted of all the offices of friendship and kindness, which we so profusely heaped upon them. They were even so civil as to accept of our assistance in placing a son of their family upon the throne of an independent kingdom; but in the mean time they took care not to give us one opportunity of shewing our complaisance in the same manner. I need not descend into particulars; gentlemen, I believe, have not forgot what was proved at the bar of this House last session; they have not forgot the inhumanities and insults practised on our fellow subjects by this haughty neighbour. Now, Sir, will the right hon. gentleman say, that because the Spanish barbarities and injuries were committed at a time when we were not only at peace with them, but shewing them the most excessive marks of friendship, therefore it was unprecedented that they should make any pecuniary acknowledgments for our real damages? Will he pretend that our ministers, for that same reason, ought not to have insisted on having some reparation for the injuries our sailors have received in their persons, and some satisfaction for the wounded honour of this nation? Let us suppose, Sir, that we had shewed our resentment by repelling force by force, and that we had, as we ought to have done, entered immediately into a vigorous war. We shall suppose, Sir, that an accommodation was set on foot, and plenipotentiaries on both sides appointed. I shall in that case appeal to every gentleman, who knows the least either of the history of his own or any other country, if the Spaniards could have objected to us, that our being indemnified, not only for our preceding damages, but even for our expences of the war, was unusual and unprecedented. It is a claim that is made almost in every negociation that follows upon a war, and is commonly admitted. Now, Sir, if this is the case, what becomes of the extraordinary merit of this negociation in obtaining this boasted reparation for our merchants damages? I am afraid, Sir, posterity will think we are so far from having obtained what we could not have expected, that we have not obtained what we might have justly claimed. If we were not at war with Spain, Sir, during all these transactions, it is so much the worse for our negociators; for that is the very reason, Sir, why our claims ought to have been the more extensive, and our satisfaction the more ample.

However, Sir, I entirely agree with the right hon. gentleman when he said, that if we look over all the histories of Europe, we shall not find one people paying damages to another in the manner (the right hon. gentleman must mean) stipu-

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lated by this Convention. I believe we shall not, Sir, because if we look over all these histories, we shall not find any parallel to this Convention itself. We shall not find that any people, without shewing the least resentment, but in the memorials of their ministers, have tamely for so long a time born such treatment, and that their ministry were at last satisfied with a Convention, wherein no more than bare reparation for the real damages of their subjects was stipulated. His Majesty, indeed, has told us in his Speech, that plenipotentiaries are to meet and settle every thing upon the foot of treaties subsisting betwixt the two Crowns. Is this, Sir, so mighty a point gained, that we are to treat with Spain upon an equal foot? The simple consideration of this, Sir, is in my opinion a full answer to all that the right hon. gentleman has advanced. He has allowed that our wrongs have been very great, and he says that our satisfaction ought to be adequate to our wrongs.

Now, Sir, as it is undoubted that we have suffered greatly, I own that I do not think myself at liberty to approve in any shape, of the measures that have been pursued for obtaining us satisfaction, till my judgment is sufficiently informed that these measures have been both expedient and successful. When the Convention shall be laid before us, if it then appears that the nation has received ample satisfaction for her losses and injuries, I shall be willing to vote not only for a zealous Address of Thanks to his Majesty, but that the thanks of this House shall be returned to his ministers. But at present I can challenge any gentleman to shew, from the speech we have heard, that the nation has by this Convention obtained one concession in favour of her trade and navigation, excepting that Spain is willing to treat. A very great concession indeed!

I cannot take my leave of this subject, Sir, without making some observations upon what fell from the right hon. gentleman, with regard to what he said of the reign of James the first. That reign was the poorest, the weakest, and the most disgraceful in the English history: and what have they to answer for, Sir, who have reduced this reign so low, as to admit of a parallel with that of James the first? This Convention, Sir, from all we yet know of it, may one day swell the charge against those who have brought us to this pass; and, till I am more thoroughly acquainted with its real merits, I am entirely against taking any notice of it at all.

Sir *John Hynde Cotton*:

Sir; I should be glad if the right hon. gentleman, who spoke last against the Amendment, would inform the House what greater security we have for the performance of this Convention than we have had for the performance of every Treaty we have for these twenty years past entered into with Spain. I speak this upon the supposition that the Convention is in our favour, and that it answers all the just demands of the nation. The right hon. gentleman said, indeed, that we had now obtained the great seal of Spain. Really, Sir, I believe the great seal of Spain to be a very pretty thing; I believe we have obtained somewhat that may do very well to divert a boy or a girl; but I do not see how the great seal of Spain can be any greater security to us for the preservation or recovery of our rights, than what we had before by the treaties in force. Was not the great seal of Spain affixed to all these treaties? Do we find that the Spaniards pay any regard to it? And has the right hon. gentleman given the House any one reason why we should believe that they will pay any regard to this Convention, supposing it is in our favour? Therefore, Sir, till I am informed in what manner the rights of this nation are better secured by this Convention than they were by former treaties, I must be for the Amendment.

Sir *John Barnard*:

Sir; I shall not detain the House, as it is now late, in entering very far into the merits of this Convention; but I cannot help observing that it seems to me to be a very extraordinary measure. All I can find that has been done by it, is a sum of money obtained for our private merchants. Every thing else is referred to a future discussion, whose event is very uncertain. It is true, that this Address, as it stands without the Amendment, seems to point out, it gives at least some hints of what will be the business of these gentlemen the plenipotentiaries when they meet. It is there said, Sir, that they are appointed for regulating grievances and abuses. I have many times heard of removing grievances, but I think this the first time I have met with such an expression as regulating them. The regulation of grievances must imply that some conveniency

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attends them, and therefore it is proper they should exist, provided they are regularly imposed. Therefore, Sir, I own that I cannot consent to our inserting any such expression in an Address from this House to the throne.

The question being put, the Address was upon a division carried: Ayes 230, Noes 141.

The Commons' Address of Thanks.] The Address of the Commons was as follows:

"Most gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in Parliament assembled, do beg leave to return your Majesty our unfeigned Thanks for your Majesty's most gracious Speech from the throne.

"We acknowledge your Majesty's great goodness in the constant regard your Majesty has been pleased to express to the Petitions and Complaints of your subjects, and the advice of your Parliament, and in pursuing such measures for the honour and dignity of your crown and the true interest of your people, as your Majesty in your great wisdom judged to be most proper and advantageous.

"We congratulate your Majesty on the success of your royal endeavours, in concluding a Convention with the king of Spain, whereby reparation is stipulated to be made and paid to your Majesty's injured subjects, and plenipotentiaries are appointed for regulating all those grievances and abuses, which have hitherto interrupted our commerce and navigation, and for removing all future causes and pretences of complaint.

"We beg leave to assure your Majesty, that your faithful Commons will effectually support your Majesty in accomplishing and bringing to perfection this great and necessary work, in such a manner as may answer the just demands and expectations of your Majesty and your people.

"And your Majesty may be assured, that your faithful Commons will grant to your Majesty such Supplies, as shall be necessary for the honour and security of your Majesty and your kingdoms; and that we will endeavour to avoid all heats and animosities in carrying on the public business at this critical and important conjuncture."

The King's Answer.] The King gave this Answer:

"Gentlemen;

"I return you my thanks for this dutiful and loyal Address, and you may be assured, that I will use my best endeavours to bring this important affair to a speedy and happy conclusion."

Debate in the Commons on Motions for Papers relating to the Spanish Convention.] Feb. 6. The Commons came to the following Resolutions: "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions that there be laid before this House, 1. Copies of all Representations, Memorials, or Petitions, made to his Majesty, or his Secretaries of State, since the Treaty of Seville, relating to any losses sustained by his Majesty's subjects, by Depredations committed by the Spaniards in Europe and America, which have not already been laid before this House. 2. Copies of all Representations, Memorials, or Petitions, made to the Commissioners for executing the office of Lord High Admiral of Great Britain, or Commissioners for Trade and Plantations, since the Treaty of Seville, relating to any losses, *ut supra*. 3. Copies or extracts of any Letters from any of the British Governors in America, his Majesty's Ministers in Spain, and Consuls in Europe, to the Secretaries of State, Commissioners for executing the office of Lord High Admiral of Great Britain, or Commissioners for Trade and Plantations, since the Treaty of Seville, relating to any losses, *ut supra*. 4. Copies or extracts of any Letters from any Commanders in chief, or Captains of his Majesty's ships of war, to the Secretaries of State, Commissioners for executing the office of Lord High Admiral of Great Britain, or Commissioners for Trade and Plantations, relating to any losses sustained by his Majesty's subjects since the Treaty of Seville, by Depredations, *ut supra*." After this,

Mr. *Sandys* spoke to the following effect:*

Sir; the Resolutions which this House has now come to, are in my opinion ex-

* "The House resolved to address the king, that copies of all the memorials, representations, letters, and papers, presented to his majesty, or his secretary of state, relating to depredations, should be submitted to the perusal of the House: But some members in the opposition were not contented with this resolution. Then Mr. Sandys, who may be termed

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tremely proper. It is very proper that we should see all that has been offered from our merchants by way of complaint, or representation to the government since the treaty of Seville, relating to the Spanish Depredations. It is likewise very proper we should know what representations have been made by our governors, ministers and consuls abroad, upon the same subject; and likewise every thing that may have come from our admirals, or captains of men of war. But give me leave to say, Sir, that now you have come to all these resolutions, you are but half through what you ought to do upon this occasion; the most important part is still behind, and that is our knowing what measures have been pursued in answer to these several applications and representations. Without our knowing this, Sir, it is impossible for us to judge either of the sincerity and diligence of our own ministry at home, or how far the insolence and injustice of the Spaniards have reached abroad.

All these points must be fully and clearly comprehended by this House, before we can venture to proceed in giving our opinion upon this Convention, which his Majesty has been pleased to acquaint us of, and to promise that it shall be speedily laid before us. If from what shall appear upon the face of the papers I intend now to move for, our ministers have done every thing to prevent a war, without sacrificing any part of the national honour or interest; if it shall appear that they have stated the differences betwixt Spain and us, in a true light to that court; if it shall appear that they have given the Spaniards no encouragement, by their dilatory and irresolute way of proceeding, to insist upon their own terms, and to go on in ruining our trade and navigation; I say, Sir, if all this should appear, we can easily determine upon the merits of this preliminary treaty, which we have accepted of. The stipulations contained in it ought to be founded upon the justice of the claims of either party; but if these claims never have been made, or if they have been shamefully given up on our part, and if this conduct has encouraged the other party, to oblige us to accept of a preliminary, instead of a definitive treaty, then the question with us, ought not to be how far the Spaniards, but how far our ministers are to blame.

Besides, I cannot conceive that the papers which you have already resolved to address for, can be of any manner of service to us, or indeed that they can be intelligible to the House, unless we shall see the instructions that have been sent from hence to our governors, officers and ministers abroad; because a great number of the complaints and representations contained in the papers, which you are to address for, must refer to, and sometimes be founded on the nature of these instructions. Therefore I will be so free as to own, that I shall not be at the pains so much as to look into any of the papers we have resolved to address for, unless I shall see at the same time the papers for which I intend now to move; and I shall think it very suspicious, if any gentleman shall oppose such a motion; because I am sure that there can be no harm in a British House of Parliament's seeing all the papers relating to any transaction that is past, which have gone through the hands of British ministers. Therefore, Sir, I take the liberty to

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the 'motion-maker,' moved for an address, desiring, that the House might inspect all letters written, and instructions given by the secretaries of state or commissioners of the admiralty, to any of the British governors in America, or any commander in chief, or captains of his majesty's ships of war, or his majesty's minister at the court of Spain, or any of his Majesty's consuls in Europe, since the treaty of Seville, relating to losses which the British subjects had sustained by means of depredations committed by the subjects of Spain in Europe and America. This was an unreasonable proposal, suggested by the spirit of animosity and faction. Mr. H. Walpole justly observed, that a compliance with such an address might lay open the most private transactions of the cabinet, and discover secrets that ought, for the good of the kingdom, to be concealed. It would discover to the court of Spain the *ultimatum* of the king's demands and concessions, and the nation would thereby be deprived of many advantages which it might reap, were no such discovery made. He said, that as soon as the differences betwixt the two courts should arrive at such a crisis, and not before, the consuls were instructed to give notice to the merchants, that they might retire in time with their effects; but should such instruction come to the knowledge of the Spaniards, it would be a kind of watch-word to put them on their guard, and unavoidably occasion the ruin of many thousands of British subjects. Certain it is, no government could act either in external or domestic affairs with proper influence, dignity, and dispatch, if every letter and instruction relating to an unfinished negociation should be exposed to the view of such a numerous assembly, composed of individuals actuated by motives in themselves diametrically opposite. The motion was rejected." Smollett.

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move, "That an humble Address be presented to his Majesty, that he would be graciously pleased to give directions for laying before this House, copies of all Letters written, and Instructions given by the Secretaries of State, or commissioners for executing the office of Lord High Admiral of Great Britain, to any of the governors of the British plantations in America, or any commander in chief, or captains of his Majesty's ships of war, or his Majesty's minister at the court of Spain, or any of his Majesty's consuls in Europe, since the treaty of Seville, relating to any losses sustained by his Majesty's subjects, by means of depredations committed by the subjects of the king of Spain in Europe or America, which have not already been laid before this House."

Mr. *Horatio Walpole:*

Sir; the present motion seems to contain two separate articles, and I shall beg leave to offer my reasons to the House, why I dissent from both. One relates to the Letters and Instructions sent to our ministers at the court of Spain, our consuls in that kingdom, and our governors in America, and the other to those sent to our naval officers. As to the first, Sir, I hope gentlemen, before they agree to this motion, will consider, that in such differences as subsisted lately betwixt our court and that of Madrid, a minister is furnished not only with public but private Instructions, and these private Instructions commonly contain things no way proper to be communicated to the court where he resides. It has been many times known in negociations, that a minister has been instructed publicly to insist on very high terms, and yet has had private Instructions to abate very much of these terms, provided he could obtain an equivalent, or compass a favourite view of his court.

I do not know, Sir, whether this is or is not the case with regard to the instructions sent to our minister at Madrid, because I never had any concern in our transactions with that court; but, Sir, it is both very possible and very probable that it may be the case, and if it is, his Majesty will no doubt have very good reason to be offended at an address, which, should he comply with it, might lay open the most private transactions of his cabinet, and discover secrets that ought, for the good of this kingdom, to be concealed. But the present motion not only includes instructions given by our ministry and admiralty to our plenipotentiaries at the court of Spain, but likewise to all our consuls and governors of our settlements abroad. This might be attended with very bad consequences to the trading part of the nation. Gentlemen know very well, that, in case of a rupture betwixt Spain and us, the Spanish court immediately confiscates the effects of our merchants residing there. It has therefore been always thought proper to let our consuls know, either by our ministry here, or our minister at Madrid, that as soon as the differences betwixt the two courts shall arrive at such a crisis, and not before, they are to give the merchants notice to make the best of their way with their effects. Now, should such an instruction as this come to the knowledge of the Spaniards, it is a kind of watch-word to put them on their guard, and must unavoidably occasion the ruin of thousands of our subjects. It must have another bad effect, Sir, by letting the Spaniards know the ultimatum of our demands and concessions, and the kingdom may thereby be deprived of many advantages which she might reap, were no such discovery made.

I shall now examine the propriety of this motion, so far as it relates to the instructions given by the government here to our admirals and captains. These instructions, Sir, are very probably yet unfulfilled, and it would be doing a very imprudent thing, should we put it out of the power of our officers abroad to fulfil them; which must be the case if they are now discovered to the public. Besides, there is nothing more easy than to find fault. Objections may be raised to the best concerted plan that ever was laid down, and the approbation which it meets with generally depends upon the event. Therefore, Sir, it ought not at all to surprise gentlemen, if they whose characters, perhaps their lives and their fortunes, depend upon the success of these schemes, oppose the motion. On the other hand, it must be surprising to those without doors, as well as to us within, to hear that such a motion has been made in this House. Have not the ministers been cried out against for not entering into vigorous measures, as they are called; and should we agree to this motion, do not we take the most effectual method to disable them from pursuing any measure with vigour? I am far from denying, that the motion we are now considering, would be a proper motion, if all danger of a war were over, and if we had concluded a definitive treaty with

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Spain: were that the case, there would be no inconveniency in our addressing for these papers, because there would be no farther use for the instructions contained in them: but that is far from being the case at present. The treaty that is concluded is a preliminary, and the conclusion of a definitive treaty depends upon our unanimity and resolution to pursue the same vigorous measures that we would have done had this preliminary never taken place. But, Sir, give me leave to say, that if we should agree to this motion, we put ourselves under an incapacity of pursuing these measures, because we expose them to the public, and thereby give Spain and her allies an opportunity of defeating them.

There is still another inconveniency which must arise from our agreeing to the present motion. We are to consider, Sir, that though the stipulation for our merchants' redress is a positive stipulation, yet that the performance of it is in reality but eventual. I do not mean that there is any ambiguity in the terms of that article in the convention, or that any event can happen which will justify the court of Spain in refusing to pay the sum there specified; but we all know very well, that princes are often determined by interest, without regard to the strict laws of justice and equity. Now, if our exposing these papers should afresh embroil us with Spain; if she should imagine, upon being informed of their contents, that she could prevent our distressing her in the same manner we might have done had they been kept secret; in such an event, Sir, who can answer for it that she will not create pretexts and frivolous excuses, to put off the payment of the stipulated sum? I am sure, I have heard that court charged in this House with as gross violations of her faith, and I dare say that if our agreeing to this motion were to have that effect, gentlemen would think that they had a great deal to accuse themselves of.

In the mean time, I am far from thinking that there will be no occasion for our seeing any papers at all before we come to a resolution with regard to the convention. I know we shall have occasion to see a great many, and we have no reason to doubt that his Majesty, as he has ordered the Convention to be laid before us, will likewise order those papers to be communicated to the House which are proper for us to see. But, Sir, I think we should act with great precipitancy, should we address for any papers that may draw a refusal from his Majesty, and may occasion an interruption of that union betwixt his Majesty and this House, which in the present juncture of affairs is our best and greatest security.

Sir *John Barnard*:

Sir; I have sat long enough in the House to hear many debates on this head, but I never knew one good effect attend our giving a negative to a motion of this nature. Did experience tell us, that the counsels of a ministry have been always more advantageous to the nation than the resolutions of parliament: had this nation never found the misfortune of being governed by a ministry, who preferred their own interest to her honour; had there never been an instance when the interposition of parliament rescued the nation from the wicked effects of mal-administration; then might I have had so much confidence in the present ministry, as to agree in my sentiments with the hon. gentleman who spoke last. But I have seen the complaisance of parliament to the ministry attended with so many bad effects, especially of late, that I think it is high time for us to alter our measures, and to judge from what we see, and not from what we hear.

I own all that has been said rather confirms me to agree to the motion, than otherwise. All that the hon. gentleman has said, in my opinion amounts to this, that the papers now moved to be addressed for, relate to an unfinished negociation, and therefore it will be doing an indignity to his Majesty to address for these papers; that it might likewise put Spain on her guard, should the manner in which we are to attack them come to their knowledge; and thereby the ends of the Convention might be frustrated.

The very reason why this motion ought to be agreed to, is because these papers relate to a negociation that is still in dependence. Had the negociation been finished, the reasons for our agreeing to this motion would not have been near so strong with me as they are now. But, Sir, I have not heard yet any one reason given, why the just expectations of parliament and the people have not been answered, and why we are not at present in a state of certainty with regard to our differences with Spain; why we are not carrying on either a vigorous war, or reaping the advantages of an honourable peace.

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These are considerations that offer to me, previous to all other considerations. When once this House is satisfied in these points, it will be easy for us to come to a resolution as to every other point that relates to this affair. But these are points we never can come to the knowledge of without our seeing, in the first place, the papers now moved to be addressed for. I say, Sir, in the first place; for if our admirals and captains have had no orders to act with vigour; if our consuls and governors have had no instructions to stand by the rights of this nation at all events; or if they have been instructed to wink at the calamities of their fellow-subjects, and, as many suspect, to connive at the barbarities inflicted on them; then, Sir, the House must be led into another enquiry by what means it has happened that such a conduct has been observed. We are then no longer to wonder why the Spaniards have not been brought to do us justice, and why our merchants are still exposed to the insults of their enemies.

If, Sir, there had been any comparison betwixt our strength and that of the enemy, if the Spaniards had had the least pretext in justice or equity for the barbarities inflicted on the subjects of this nation, some excuses might have been pleaded from the imprudence of hazarding our strength and reputation on a doubtful event; some excuse, Sir, might have been pleaded from the injustice of supporting claims that are inconsistent with the treaties and the law of nations. But, since we are as evidently superior in strength, as in the justice of our cause, the reasons of our forbearance since last session, and our accepting this convention, must be attributed to some cause of which the parliament ought to be the judges, and which, I am afraid, the parliament alone can remove. Are we for ever to trust to the courage and honesty of our ministry? Are we never to interpose, and let his Majesty know the sense of the nation? Have we for these 20 years past ever offered our advice to the throne upon any doubtful exigency? Have we not, as often as such advice was proposed, been told, that we had no reason to doubt the prudence and zeal of the ministry; that it was an affront upon his Majesty for us to interpose in those points where the crown by its prerogative was to be the sole judge. Let gentlemen, Sir, look over the History of England, and they will find this is the language that has brought on all the inconveniencies which we have felt. This is a language that honest ministers never use; it is the language that wise ministers reject. Honest ministers would be glad of having an opportunity to take advice, better advice than it is possible for them to give; and wise ministers never think themselves so happy as when they have the advice of parliament, to give a sanction to their proceedings.

As to the putting the Spaniards on their guard, I am not so much either of a soldier or a sailor, as to pretend to determine precisely what weight may be in that objection: but I have read a little, and have heard a great deal with regard to the management of a war betwixt us and the Spaniards: and, so far as I may be allowed to judge, there is but one way in which we can possibly attack them, and that is by sea. We have already fatally experienced the effects of a land war with Spain. It was indeed attended with glory; it was attended with success: but, Sir, it was attended with an expence which we feel to this day. Therefore I think it is quite out of the question to suppose that any military operations of ours against Spain, which were to have taken effect by land, should be discovered by our agreeing to this motion. It is possible that we may discover by it, whether our government design to act in earnest. But I can see very little advantage Spain can reap from this, though I think I see a great benefit which must arise from it to Britain.

We can never imagine, Sir, that the Spaniards have been so stupid as not to take all possible precautions to defend themselves in case of a rupture. They know very well, I believe every gentleman in this House, every man of common sense without doors knows, where and in what manner we can attack her, if we are in earnest. Therefore, Sir, I think it is of very little consequence whether the Spaniards shall come at the knowledge of the plan of operations or not. But, Sir, I said I could easily see an evident advantage which our being well assured that the ministry were in earnest to act against Spain must be attended with: such an assurance would inspire the people, I had almost said, with a veneration for the ministry; I am sure it would for his Majesty; when they saw that they were resolved to take satisfaction for the injuries we have received. This must be attended with the best effects. The opinion which the subjects will then entertain of the ho-

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nesty and abilities of those at the helm, will make them contribute their share of the expence with alacrity. Our sailors, Sir, who have long acted with reluctance, would then serve with cheerfulness. There would be then no occasion for pressing men aboard for our navy. That reluctance, Sir, so visible in our sailors, intirely proceeds from the numberless disappointments they have already met with; and give me leave to say, Sir, that there is no other method of removing their distrust on that head, than by our government's letting the public see that they intend to act honestly and fairly, that they do not design to amuse the world any longer with idle parades, or sham expeditions.

There is another good effect, Sir, that our agreeing to this motion must have; it will make Spain cautious how she trifles any longer with us. Can any reasonable man believe, Sir, that if she had thought we dared to act vigorously, she would have treated us in the manner she has done? she must be conscious, that by herself she is a very unequal match for us, and that it is in our power to humble her before she can receive any assistance from her allies. Her ministers must be conscious that we have been treated in a manner that directly violates all the law of nature and nations, and every treaty subsisting betwixt us and them. Give me leave to ask, Sir, from whence can the motives of their proceedings arise, if they do not arise from an opinion of the weakness and irresolution of our ministry? But, Sir, our agreeing to this motion will set them right in that respect. I hope we shall see Instructions to our admirals and captains that will make the Spaniards, and all the world sensible, that we have ministers both too wise and too honest to be any longer trifled with. This, instead of obstructing, must facilitate every negociation with that crown. As we want nothing of them but what is fair and right, they would be more ready to grant it willingly, when they find, if they refuse, we are determined to command it by force.

But, Sir, as no arguments are so good as those drawn from experience, I am sorry to say that in this case we have fatal experience of the reasonableness of this motion. I see many gentlemen here who may remember our expedition under admiral Hosier. How many of our brave seamen perished, how many of our best ships rotted, and how much of the national honour was lost in that expedition, is not my business at present to enquire into; but I will venture to say, that it had been happy for this nation, that either that expedition had not been made, or that the parliament had been before-hand acquainted with the nature of our admiral's instructions. But, Sir, this is a very ungrateful, a very melancholy subject; therefore I shall only observe, that while the memory of that expedition is so recent in the minds of the people, it will be impossible to cure them of their suspicions; it will be impossible to convince them that our present measures are not in the same strain they were then in, unless the parliament is made acquainted with the nature of the instructions that have been given to our admirals and officers abroad.

I have little more to add, Sir, but I cannot help observing, that there is a very wide difference betwixt common report, and the arguments that have been advanced against this motion. These arguments have been all built upon the supposition that the negociation with Spain is still depending; upon the supposition that the Convention is no other than a preliminary, and that we have still a good deal to fear from Spain. But, Sir, if any credit is to be given to common report, our ministry are acting in a manner which shews that they think all differences with Spain are accommodated. If we are to believe common report, Sir, they have so much confidence in Spanish honour and faith, that they look upon a definitive treaty to be as good as concluded, and have already recalled our squadron from the Mediterranean sea. I shall not warrant the truth of this report, Sir; but if it is true, in my humble opinion it entirely overthrows all that has been advanced by the gentlemen on the other side. However, whether it is true or not, I think the reasons I have already given, and those I have heard from my worthy friends, are more than sufficient to determine me in giving my voice for the motion.

Sir *Robert Walpole*:

Sir; a great deal of time has been consumed in this debate; more, perhaps, than the importance of it deserves: but, Sir, it is the way with most men, I do not know but it is so very often with myself, that a matter, which in itself is but trifling, becomes considerable by being opposed. If gentlemen knew of how little consequence it is to the interest of the minister (for I see no reason why I may not use that

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word too) whether this motion is or is not agreed to, they would think they had spent their time very indifferently in this debate. Gentlemen have been very witty, or, if they please, very severe upon the minister; but, Sir, I wish that when gentlemen lay down maxims of government, or rules for the conduct of the minister either within or without doors, that they would be so candid as to examine their own conduct by such rules.

If gentlemen are to be directed by reason, I should be glad to know, Sir, why it is unreasonable to suppose that it is possible for a minister to be in the right. We have heard, Sir, a great deal of the absurdity of believing the word of a minister, or laying any stress on his assurances; but is it not as absurd in some to believe that a minister can never be in the right, as it is to believe they never can be in the wrong? Besides, Sir, gentlemen may imagine, or want others to imagine, what they will; they may make what distinctions they please betwixt his Majesty and the ministry; but give me leave to say, that it is a very sorry compliment to the understanding of any prince, to suppose that he suffers himself to be directed either by a weak or a wicked minister.

It is in this light alone, Sir, that I take the liberty to make any observations on the personal reflections that have been levelled against the ministry in the course of this debate: but, Sir, I cannot help being of opinion, while I defend my own character, while I vindicate my own measures, I defend the character, I vindicate the government, of my royal master.

After what I have said, and after what has been said by the gentlemen who have opposed this motion, it would be needless, it would be improper for me to resume any of the arguments that have been offered either for or against it: but, Sir, as the hon. gentleman who spoke last touched upon a fact, which I must be presumed to know a little of, I shall beg leave to give the House some information in that particular.

The hon. gentleman who spoke last, said, with that good sense which he always discovers when he speaks either in public or in private, that if at this juncture we recalled our fleet from the coasts of Spain, our negociations with that court ought to be looked upon as at an end, and consequently that no argument could arise against this motion for our addressing for papers relating to a depending negociation. If that were the case, if our fleet was recalled, I should be of the same opinion: but, Sir, I can take it upon me to affirm that no such orders have been sent, and that I never heard of any such orders before I heard them now. I believe, Sir, gentlemen will not suspect that orders could have been sent without my knowledge; and they are mistaken, if they think that I can have any interested views in concealing them. However, Sir, I cannot omit taking notice of the views with which such reports are propagated, and how easy it is for the best intentions in the world to be defeated by any malicious fellow, who shall take upon him, from his own conjectures, to affirm things for facts that never had any existence but in his own brain. I am sure the hon. gentleman himself did not invent so improbable a story; but, on the other hand, I am sure that with all the discernment he is master of, he was very much affected by it, and that if I had not taken this opportunity of undeceiving him, most gentlemen here might have believed it.

That hon. gentleman was pleased to bring the case of admiral Hosier's expedition, as a parallel to our present circumstances. Sir, I am as much affected with the hardships and calamities which befel my fellow subjects in that expedition as any gentleman here; but no prince, no minister alive can guard against accidents. If a scheme is well digested, and properly executed, that is all which ministers can answer for: the elements are not under our direction, and though that expedition did not answer all the ends it was designed for, yet I believe the nation feels the good effects of it at this day. It happened at a time when the situation of the affairs of Europe was very different from what it is at present: but I need not descend to particulars; I believe most gentlemen present remember what the motives of it were, and that as often as it came under the consideration of this House, the objections to the conduct of the ministry, on that head, were always fully and solidly refuted.

In short, Sir, if the Spanish treasure at that time escaped our fleets, it was owing to accidents which no human foresight could prevent, and may serve to let us see, that however some gentlemen flatter themselves with the thoughts of always having it in our power to bring Spain to our terms, yet it is not so easy a task as these gentlemen imagine. Our admirals and captains at that time, Sir, did their duty, and

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I believe would have exerted their courage too, had the plate-ships come in their way. But their escape at that time is a proof that neither the goodness of ships, the number of men, the skill of our officers, nor the bravery of our sailors can avail, when the winds and the weather favour the enemy. If gentlemen would make due reflections upon this, I dare say they would be much cooler in their debates and proceedings upon those questions that relate to our differences with Spain. Mean time I think the arguments which I have heard in support of the motion are not sufficient to warrant my giving assent to it.

The question then being put, it passed in the negative, 183 against 113.

It was then moved by Mr. Sandys, "That an humble Address be presented to his Majesty, that he would be graciously pleased to give directions, for laying before the House, copies of such Memorials or Representations, as had been made, either to the king of Spain or his ministers, since the treaty of Seville, relating to Losses sustained by his Majesty's subjects, by means of depredations committed by the subjects of the king of Spain in Europe or America." Upon which,

Mr. *Henry Pelham* said:

Sir; after the House, for very good reasons, had given a negative to the last motion, I did not expect to hear one of this kind; because the reasons for not agreeing to the last, hold, in my opinion, much stronger for rejecting this. Gentlemen, before they make such motions as these, ought to consider two things principally; first, whether this House has a right by the constitution to agree to motions of this kind, for calling for papers while a negociation is depending; and in the next place, how far such an Address will be complied with on the part of the throne. His Majesty by our constitution certainly has a right to make peace or war, and consequently, to take such steps as may enable him to do both with honour and success; but if we call for those very papers that contain the whole transactions with regard to either, gentlemen are to consider, whether this be not an attempt to wrest this prerogative out of the royal hand, where it is now so well lodged. At the same time, Sir, admitting we had such a power, if for reasons best known to his Majesty, he should refuse to comply with our Address, Gentlemen cannot but foresee, that such a refusal has often produced a misunderstanding betwixt the Crown and Parliament; which on this occasion must produce the very worst effects.

It becomes therefore, Sir, a prudential consideration with us at present, whether these papers may not be of such a nature as to require the utmost secrecy, and whether our agreeing to this motion, may not defeat all the good ends proposed by the Convention; for as the Convention is no other than a preliminary treaty to a definitive one, there must consequently be a great number of points still unsettled betwixt his Majesty's ministers and those of Spain, and therefore calling for the copies of any papers that are now, perhaps, lying before the king of Spain's council, is calling for papers that relate to an unfinished negociation. Besides, Sir, the papers that have been laid before the Court of Spain by our ministers, will necessarily discover a great part of the contents of those papers, which have been communicated to this Court by that of Spain. Making such papers public, must be interpreted by Spain as an affront done to her, it being an indignity done to a court, after a negociation is concluded, to publish all the demands which, either from a misinformation, or a desire to advance her own interest, it may have made. This might make them shy of entering into any farther negociation with a Court, that is capable of treating them so unhandsomely. Besides, Sir, a wise ministry will always consider the character of the people with whom they treat: if the Spaniards were under the same form of government with ourselves; if they had the same notions of liberty, and the same rights to secure it, the motion would not have been so improper. But we are to consider, that we have to do with the most jealous people under the sun; we have to do with the ministers of an absolute prince over a country where every thing is transacted with the utmost secrecy, and who would be startled that any paper of state should be exposed to public view: this, Sir, might render, not only Spain, but every nation in Europe, averse from entering into any negociation with a people, who cannot keep their own secrets, or those of their neighbours.

I shall now consider a little how consistent such an Address would be, with the regard and decency we owe to his Majesty. Give me leave here to observe,

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Sir, that nothing can contribute more to obtaining a definitive treaty, on a safe and honourable footing, than a good correspondence betwixt his Majesty and his Parliament; and nothing will be a greater encouragement for Spain to insist upon high terms, and to be obstinate in her demands, than even the appearance of coldness between them. Now, Sir, if we should resolve to address his Majesty for these papers, before we are sure, that he will think fit to comply with our request, I do not know any measure we could pursue, which might be more detrimental to the public: they who are dissatisfied with the present happy establishment, under the colour of being dissatisfied with the ministry, will take occasion to insinuate, that a difference has arisen betwixt his Majesty and the Parliament: this insinuation will be industriously propagated amongst foreign courts, till this nation shall be in danger of losing much of that decisive weight which every good subject would wish she enjoyed abroad. Nothing, Sir, could give foreign powers a fairer opportunity of uniting among themselves, than this opinion; and such an union is what Great Britain ought by all means to guard against. We should not then have to deal with Spain alone; we should soon see France entering her claims likewise: I am not sure but our good allies the Dutch might endeavour to obtain some concessions to our prejudice: for, give me leave to say, Sir, that the union which has always subsisted betwixt our Court and the Parliament, since the accession of the present illustrious family to this throne, has been the means of our enjoying many advantages in commerce, unrivalled, and uncomplained of by our neighbours: and gentlemen ought to be more cautious how they give occasion for our neighbours so much as to suspect any difference betwixt his Majesty and Parliament, when they reflect that there never was a time when any difference happened betwixt them, in which our neighbours did not do all in their power to improve it to their own advantage.

I have insensibly fallen again into the consideration of foreign affairs; but every domestic incident has such an influence upon our foreign situation, that it is almost impossible to separate the consideration of one from the other. There is indeed one consequence entirely domestic, that may attend our agreeing to the present motion, and that is the opinion it might give his Majesty of the wisdom and moderation of this House. His Majesty has always, in every public transaction of his reign, considered the Parliament as his great council; he has advised with us, he has paid a just regard to our sentiments, and has informed us of every material transaction of his reign. Now, Sir, if we do not, on our parts, answer those gracious dispositions; if we do not act within our own sphere, his Majesty has great reason to think, that we require the deference and esteem he has always expressed for us very ungratefully. He has informed us, that a Convention has been entered into with Spain; he has told us, it is a Convention for settling all matters in dispute betwixt them and us, in such a manner as may, for the future, prevent and remove all new causes of complaint. He has likewise informed us, that the Convention shall be laid before us. If we should agree to the present motion, Sir, in what manner shall we requite his Majesty's royal endeavours for the interests of this nation? If, before we have come to any resolution about this Convention, before we have deliberated whether it is, or is not, for the advantage of the nation, we fall to examine into the papers and instructions that have, in order to bring it about, passed betwixt his Majesty's ministers, and those of Spain? Nothing, Sir, can be a more preposterous way of proceeding. It is telling his Majesty, that we won't regard the merits of the Convention, by itself; we will be determined in the judgment we shall form of it, as we are pleased or displeased with the conduct of the ministry previous to its being concluded. Sir, give me leave to say, that when this House deliberates upon approving, or not approving any measure, we are to consider that measure as it stands by itself; if we find it in itself to be a good measure, we are to approve of it, and we are not to regard its connection with any other circumstance. If we were to suppose that this Convention, which will be considered in a day or two, has been brought about by the most abandoned set of men in the world; yet if we find it to be for the public good, we are not to enquire into, and censure the means by which it was brought about. The best and the most reasonable method of proceeding, and the way in which this House has always proceeded in such cases, is to examine the measure itself; and if it is found to be a destructive measure, let us petition his Majesty to have all the

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papers relating to it laid before us, that we may inflict a suitable censure upon the advisers and managers of such a step: but if we find it a good measure, I do not see what we could propose to ourselves by calling for any papers previous to it: unless it were to let his Majesty see, that we are resolved to fish for faults, and to take upon ourselves a power unknown to our constitution. I shall suppose that we are now to agree to this motion; what might be the consequence? I am afraid such as would give the crown no very favourable opinion of our prudence and candour. For his Majesty may very justly conclude, that, being conscious we could find no fault with the Convention by itself, we were resolved, rather than not find fault, to fall upon his ministers for what they had done before it was concluded. This, Sir, give me leave to say, might, with very good reason, be looked upon by the Crown as a very great piece of disrespect, and be resented by a denial, which, I am sure, would be very disagreeable to his Majesty, however just it would be in itself.

I shall beg leave only to add a very few things to what I have already said: it has always been the rule of this House, never to call for papers relating to a negociation while that negociation is in dependance. I know gentlemen will consider the convention as a negociation entirely separate from the definitive treaty that is supposed to follow it; but I must humbly differ from those gentlemen. All preliminaries, in their own nature, have a relation to the negociations to which they refer; and it frequently happens, that preliminaries contain the substance of all that follows after; and that the subsequent negociations are only to extend the stipulations and give them a more authentic sanction: though I am not to suppose that this is the case with the convention, yet no gentleman, who has looked into it, but must see that, though it is not a definitive treaty, yet all the material points, upon which a definitive treaty is to proceed, have been adjusted betwixt the ministers of the two crowns by this convention: therefore the instructions that have passed betwixt our court and that of Spain, relating to the convention, may very reasonably be presumed to relate likewise to the subsequent definitive treaty.

This being the case, by agreeing to the present motion, we call for papers relating to a negociation still in dependance, and thereby assume to ourselves a right by no means belonging to this House. We assume to ourselves a right of directing and of censuring the conduct of his Majesty's ministers upon a measure that is not yet concluded; in short, we assume to ourselves a right that is already lodged in the royal hands; in hands, Sir, that have been always so far from making a bad use of it, that this House has always been sharers in that part of the prerogative.—My opposition to this motion, Sir, must by every gentleman who judges impartially, be looked upon as proceeding from no consciousness of any thing amiss in the papers to be addressed for by this motion: because, if we should find the Convention to be a measure against the honour and interest of this nation, there is still room for us to go into this Address.

Sir *William Windham*:

Sir; I am sorry that I am obliged to differ from the hon. gentleman who sits over against me, in almost every proposition he has advanced. I readily admit, that to know the proper boundaries between the sovereign and the parliament, is a part of knowledge very requisite for a member of this House; but I think the constitution has pointed out those boundaries, it has pointed them out in plain and intelligible characters, impossible to be mistaken by any man who does not wilfully mistake. Our constitution plainly presumes, that in political transactions the minister's conduct alone is to be canvassed, and if any thing is found amiss, the sovereign is always supposed to have been misled or misinformed by the minister. I could not help saying thus much, Sir, because I have observed gentlemen, upon questions relating to papers proper to be laid before this House, still advancing that such motions tended to encroach upon the prerogative. For my part I know no prerogative that this motion can affect; I know no difficulties which it can lay us under but with regard to the minister, and I hope this House will never know any difficulty upon this head.

The hon. gentleman who spoke last appears to me to have been under two very great mistakes; first, in supposing that his Majesty would take it amiss, if we should address in the terms of the present motion; secondly, in taking it for granted that the contents of any papers cannot be communicated to this House without their being known to all the world. I am convinced that this House never did, and I hope it never will, give his Majesty reason to sus-

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pect, that we are capable of pursuing any view inconsistent with the respect we owe to him, or with the duty we owe to our constituents. While these are the maxims by which we regulate our conduct, his Majesty, I dare say, would never take any proceeding of ours amiss; because if we should ever address for any thing that is improper for his Majesty to comply with, he will not look upon it as proceeding from want of affection, but from want of better information.

This leads me to the second mistake the hon. gentleman seems to be under. If by agreeing to this motion we should address for papers unfit to be communicated to the public, there is no doubt but we shall be informed from the throne, in a regular manner, that the contents of some of the papers we addressed for ought not to be divulged. In the mean time, it is to be hoped that his Majesty will order those papers that are proper for our inspection to be laid before us. If it shall be found by the House, that the papers thus communicated are sufficient for our information: if it shall be found, they are sufficient to give us a full and a clear detail of the negociations that have preceded this convention, there is no occasion to trouble his Majesty any farther. But if these papers should relate to other papers without which we must be still in the dark, there is a method by which this House may be informed of all that is proper for them to know, and yet the ministry be in no danger of having their secrets divulged to the world. I mean the method of a secret committee, who may be appointed to make extracts from these papers relating to the affair in question, as far as shall be necessary for the information of this House. I hope, Sir, gentlemen do not suppose that the breast of a minister is the only cabinet where a secret of state can be safely deposited. I dare say, Sir, every gentleman of this House, who shall have the honour to be of a secret committee, will conceal the proceedings of that committee as inviolably as any minister alive.

I think I have already obviated the most material difficulty that can possibly arise on this point of secrecy: But Sir, I confess, that I can see no grounds for supposing, that if our ministry have honestly done their duty, there can be any secrets to be concealed from the public, or any difficulties whatsoever. The wrongs that we have suffered from Spain were committed in the face of the sun. They were avowed by her government, they were justified by her ministry; the means, Sir, which we pursued to obtain justice, were long concealed from the knowledge of the public; longer I am afraid than was strictly consistent with the interest, with the honour of this nation; and the more they were concealed, the injuries, the insults and barbarities committed on our subjects grew the more flagrant; and Spain by her conduct seemed to aim at nothing so much, as to render it impracticable for our ministry any longer to stifle the just complaints of our merchants. At last, Sir, after a long and fruitless expectation of obtaining redress by means of our ministers, our merchants were obliged to lay their case before parliament. We heard them fully, we heard them impartially; and they proved their allegations to the satisfaction, and entire conviction, of every gentleman in this House; to the conviction, I believe, of those who had the greatest reason to wish that they had not succeeded so well in their proof as they did. Upon this the House came to certain resolutions, very plain, very practicable in their own nature, which we then understood were to serve as a direction to our ministry in the succeeding part of their negociations. If they have used proper means for obtaining the concessions pointed out by these resolutions from the court of Spain, if they have unalterably pursued the scheme which the parliament laid down, where can be the harm, where the difficulty, of publishing their conduct to the world? Give me leave, Sir, to say, that it will be for their interest that the public be informed of their having acted zealously for the rights of the nation. This will inspire the subjects with an alacrity: it will induce them to second his Majesty's endeavours with vigour, should matters proceed to an open rupture. This is an evident advantage, which both the ministry and the nation will gain; and if they have acted in the manner which I hope they have, it is impossible that there can be any prudential considerations for not agreeing to this motion.

When this House came to the resolutions which were presented to his Majesty last session, all the treaties in force betwixt us and Spain, were fully considered and debated. I could have wished that our resolutions had been conceived in stronger terms, and that we had been more peremptory in our demands: But the ministry must be acquitted by every

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impartial man, if it shall appear that they have faithfully and zealously conformed themselves to what appeared to be the sentiments of the majority of this House. Now as these are no secrets to the public, I cannot conceive why any proceedings whatever, in consequence of these resolutions, should be improper to be communicated to this House. It will sound very strange to the world, if this House should refuse to call for papers, the contents of which we have reason to presume chiefly relate to a negociation that ought to have been carried on in pursuance of the resolutions of parliament. Will not this, Sir, give a handle to our enemies to suggest, that some scenes of iniquity may be discovered from these papers, and that his Majesty's ministers have had views distinct from, and inconsistent with your resolutions.

I shall go so far, as to admit that these views may be more advantageous for the good of this nation, than those that the parliament then had in view: But give me leave to observe, Sir, that however specious they may be, no measure founded thereon can be so solid, or so efficacious, as those founded on the resolutions of this House. All concessions that are obtained from Spain, if not founded on the resolutions of parliament, will be no longer binding upon her, than she shall find it her interest not to break them. This, Sir, is evident from our past negociations with that court. Gentlemen, I believe, will have some difficulty to prove that she has observed one stipulation in any treaty we have made with her these 20 years past. What was the reason of this? Did it not proceed from her opinion that our parliaments would never support the ministry, in obliging her to an observance of treaties concluded without their advice, and against the sense of the nation? This gave them encouragement to break through every obligation of faith and honour. But the present case is quite otherwise. The parliament has laid down resolutions, which are, or ought to be, guides to our ministry. We have declared, that we will effectually support his Majesty in obtaining redress from Spain on the foot of these resolutions; therefore give me leave to say, Sir, that there ought to have been no negociation carried on with Spain, whereof these resolutions did not serve as a foundation: and as these are known to all the world, I can see no reason why any part of the negociations founded on them ought to be kept secret, or should be thought unfit to be communicated to this House.

I am sorry to hear the manner in which the court of Madrid may resent our proceedings urged in this House as a reason why we ought not to proceed according to our known privileges: if ever one court had reason to observe no delicacy with another, and to break through all forms of decorum, we have received provocations enough to justify us in such a behaviour towards that of Spain. She has violated the law of nations and her own honour; she has done violence even to humanity itself, by her outrageous treatment of our fellow-subjects; and shall we, Sir, at this time of day, refuse to enter into right and proper measures for our own safety, because they may be disagreeable to some punctilios of that court? but, Sir, we do no more now than we have done in former times, we do no more than we have done in almost every session of this parliament. Did we not last session, Sir, address for papers that had passed between the Spanish ministers and ours? these papers were communicated to the House; but I think we never heard that the court of Spain resented it in the manner the hon. gentleman seems to insinuate. The Convention is a proof that they have not; and I could wish we had used the privilege we enjoy of addressing his Majesty for papers that have passed betwixt his ministers and those of any other court, oftener than we have used it. The nation, I am persuaded, would have felt the good effects of it. If foreign courts apprehended, that all the transactions betwixt us and them were to be laid before this House, I am apt to believe, that they would be much more sincere in their protestations, and that they would not dare to trifle with this nation in the manner which some of them have done.

The hon. gentleman was afraid, that if we should agree to this motion, and the papers were refused us, such refusal might beget a misunderstanding betwixt his Majesty and the parliament, which might give other powers of Europe a handle for insisting upon somewhat to the disadvantage of our commerce.

As to the American trade, which the hon. gentleman has been pleased to mention, I am sensible with how delicate a hand that ought to be touched upon by a ministry treating with other powers. But, Sir, it is certain that we have just as good a right to our share of that trade as any

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other people in Europe, except the Spaniards themselves: and give me leave to say, that it would not be amiss should we let our neighbours know, that we are determined to suffer none of them to enter into any collusive bargain with Spain, to enjoy advantages which we do not. If we have any reason to suspect this, I think it would be right in us to oblige, not only the Spaniards, but these supplanters, to a due observance of the treaties concerning that trade, let the consequences be what they will. While I am on this subject, I cannot help taking notice, that it has become a general excuse in the mouths of a great many for not entering into a war with Spain, that it is in her power to seize the property of our merchants on board her Plate-fleet. Sir, I shall admit that it is. But I think it is against the maxims of sound policy, for the sake of any private man's advantage, to expose the honour of the nation to insults.

As to the effects this address might have upon affairs at home, I am so very unfortunate as to differ widely from the hon. gentleman's way of thinking. A good correspondence betwixt his Majesty and the parliament, is what I shall always wish to see continued. But in my opinion, Sir, it is no very great compliment to this House to suppose, that if his Majesty shall refuse to lay these papers before us, we should express any dissatisfaction, or give our enemies any handle to exult or triumph. We may be perfectly satisfied, that if his Majesty should refuse to lay these papers before us, it is for very important reasons; for I am persuaded, no minister durst be so bold as to step between his Majesty and this House, and be an instrument of creating any misunderstanding betwixt them on this head.

But, says the hon. gentleman, we are not sure that his Majesty will comply with the prayer of such an address. Sir, this is an argument that may equally serve against all addresses of this kind; we are not sure, before they are presented, that his Majesty will comply with any of them; but it is reasonable to believe that he will comply with this address as soon as with any other. In this case, Sir, I am apt to think that foreign powers will entertain a very different opinion of the state of our affairs from what the hon. gentleman insinuates. It will give them to understand, that his Majesty and his parliament are resolved to act in concert. As to foreign powers uniting amongst themselves on this occasion, I think we have no great reason to dread them: we have a fleet, Sir, sufficient to prevent all the bad effects of such an union; sufficient to protect our own trade, and to defeat all the attempts of our enemies. I should be glad to know, if we have nothing to apprehend from our enemies, for what reason the nation is at so much expence in fitting out and maintaining so great a fleet? but I am afraid that the union among the enemies of this nation is already as strong as it is possible to be; if it is not, the arguments I have heard advanced for our late measures are very inconsistent and inconclusive. Was it not urged last session, in favour of our pacific dispositions, that France and Spain were so closely united, that their interests were become inseparable? and have we not been lately told, that this union is now upon the point of being rendered still more strict, by a daughter of France's marrying a son of the king of Spain. Thus, Sir, the union hinted at, is not only already formed, but perhaps as strong as it ever can be. However, if we admit this union to be of so much weight, as to influence and over-awe the necessary proceedings of this House, we shall not in the least keep off, but the sooner feel all the effects of it. Nay, shall we not invite the danger we ought to prepare against?

The hon. gentleman seemed apprehensive that France might have some claims to make prejudicial to our interest. I believe, Sir, if we were to settle accounts, the balance would be found very much in our favour. We have therefore no reason to delay the discussion of all claims that can possibly be betwixt us. We must not expect any of their good offices, and we cannot guard so well against their ill in any other manner, as by obliging them to come to a declaration one way or other. By this means, if we are not served by their good offices, we cannot be betrayed by their dissembled friendship; and if we had pursued these measures sooner, I am of opinion that we should have had but very little reason now either to court or to fear them. The hon. gentleman says, that we now enjoy many advantages in commerce unrivalled and uncomplained of by our neighbours. I wish, Sir, he had pointed out what these advantages are. I have many times of late heard that our neighbours have engrossed several branches of commerce to which we had a natural and undoubted right, but I could never yet learn that we have gained one advan-

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tage over them in that respect. Therefore I think it would not at all be amiss, if all our treaties of commerce and navigation, with the other powers of Europe, were examined, and the encroachments made upon our rights strictly enquired into: I am convinced, if this enquiry were vigorously set on foot, it would be highly for the interest of this nation.—As to our neighbours improving our divisions to their own advantage, I can see no room, from what has been yet said, to suspect that our presenting such address can produce any, whatever the rejecting it may do.

The next argument against the motion, Sir, is drawn from the impression it might give his Majesty of our moderation. I dare say his Majesty knows too much of the constitution of Great Britain in general, and of this House in particular, to be displeased at such a proceeding. If his Majesty shall find that we have done nothing more by it, than what has been usual for this House to do on like occasions, where is the ground for insinuating, that his Majesty will have reason to think we do not make a proper return for the many instances of affection he has shewn us? I am very sensible of the tenderness which he has always expressed for the rights of this House. Give me leave to say, Sir, that we have never yet been wanting in our returns of gratitude to the government. We have put it in their power, to secure themselves in the affections of the people; we have put it in their power, Sir, to make themselves as popular as any government that ever was in Britain, by furnishing them with the means both of retrieving and asserting the honour of this kingdom. If, at an immense expence to the people, we have thus strengthened the hands of our ministers; if we have thus clothed them with power almost unknown to any of their predecessors, is it not just, Sir, is it not necessary that we should have all the light communicated to us, that may be proper to inform us in what manner these expences and this power have been applied? and can any gentleman, who impartially considers this affair, doubt that our agreeing to the present motion is the most proper means of attaining that end?

The hon. gentleman says, that the Convention is not a definitive treaty, but a preliminary one. Now this very reason which he has urged against the motion, is to me one of the strongest arguments in its favour. We furnished the ministry with means of reducing Spain to reason, and of obtaining a definitive treaty with the most advantageous terms. Will any gentleman deny this to be the situation of affairs at the close of last session? I dare say he will not. What then, Sir, do we intend by the Address now moved for? We intend no more than to get as full information as possible, why the firm and well-grounded expectations of the parliament have not been answered.

The hon. gentleman, Sir, reasoned on a supposition, that we were to address for these papers for no other reason than to fish for faults in our ministry, whose conduct he seems to think is irreproachable. I wish with all my heart, that it may be found so; but I must differ from him in this particular. I am of opinion this House may address for these papers with the most sincere, the most upright intentions of doing justice to the merits of the ministry. I am apt to think, Sir, that we shall be sincere both to our approbation and censure, and that whether our ministers deserve one or the other, we have no intentions to act any otherwise than shall appear from the reason of the thing itself.

I have heard gentlemen frequently insist, that it is very unfair to condemn the conduct of ministers before we know the particular reasons and motives from which they act. I myself am entirely of that opinion. I believe a minister may be so embarrassed by accidents in the course of a protracted negociation, through the caprice, through the obstinacy of those he has to do with, that he may be obliged to follow measures, that to a person not in the like situation, and unacquainted with the difficulties he had to encounter, may appear very absurd; and yet, Sir, that very person, upon better information, may be convinced, that if he himself had been in the like circumstances, he could not have acted so prudently. The Convention is, I dare say, such a measure as what I now talk of. The world in general, and I believe not a few gentlemen in this House, I own myself to be of their number, have but a very indifferent opinion of it. However, I will not as yet absolutely pronounce it to be a bad measure, because I do not know the difficulties which our ministers may have had to encounter. I do not know what reasons Spain might have had to urge; nor a thousand other circumstances, which might be proper for me to be instructed in, before I can deliver my final judgment of it. These difficulties, Sir, are only to be known from the papers

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now moved to be addressed for. For my own part, I will take them upon no man's representation; they who may be most proper to represent them to the House, are known to be too strongly interested in the fate of the question about this Convention. They who are not interested, cannot represent them to the House, because they are not in the secret of affairs. How then, Sir, are we to receive right information? we are to receive it from the very papers, which we have reason to believe were penned with no design of imposing on this House. This, I own, Sir, is the only method by which the objections I have already formed in my mind against this Convention can be removed.

I shall only trouble the House with a word or two more, with regard to the indecency of our addressing for papers that relate to a negociation not yet finished. This is an argument, that I own has had of late great weight with this House; and I do believe that formerly it was not very usual to address for such papers. But I must at the same time observe, that formerly our negociations were quite of a different kind from what they seem now. Our forefathers acted with resolution; they acted with prudence; they did not suffer themselves to be deceived by the outward protestations, or undermined by the secret treachery of their enemies; therefore the first notice which the public commonly had of a negociation, was by its being notified to the parliament that it was concluded: so that it was almost impossible for them to call for any papers relating to a negociation that was depending. But we, Sir, have got into a new method of treaty-making; we are always negotiating, but we never conclude. We have been negociating with Spain these twenty years, without making one definitive treaty, that has not been broken before the parliament could have an opportunity of calling for any papers relating to it. For the breach that followed (such was our policy) always gave rise to new negociations, which were set on foot before the next meeting of parliament; then, Sir, when we called for papers relating to the former negociation, we were told that these papers related to the negociation in dependence, and that therefore they were very unfit to be communicated to the House; his Majesty would take it amiss; and the Spaniards would be displeased. This, Sir, I take to be the very case now. The treaty of Seville, though called a definitive treaty, was indeed as properly a preliminary treaty as the Convention; for the most material points, that then created the difference betwixt us, were left to the decision of our commissaries, in the same manner as they are now left to plenipotentiaries. The stipulations in the treaty of Seville, being either violated or not fulfilled by the Spaniards, gave rise to a new negociation, which produced the Convention; and the Convention itself is but a preliminary to a negociation, which negociation may continue heaven knows how long. Thus, Sir, it is evident, that, in the hon. gentleman's sense of the words, this House has not been able for these ten years past, to call for any papers relating to Spain, that might not be said to regard a negociation not yet concluded.

But, Sir, I must beg leave to trouble the House with one reason more why I am for the present motion. If we may give any credit to our public news-papers, and to common report, our ministers have met with great difficulties in obtaining from Spain even this Convention, poor as it seems to be; nay, if some people are not very much misinformed, we could have had better terms from Spain eight years ago, than we have got by this Convention. Now, Sir, what indignation must it raise in the breast of every considering man, who reflects that our vast preparations and expences have had no effect but to our own detriment! To what can this be attributed? it must be to one of two causes: the first is, that it is possible Spain may have so thorough a contempt of us, as to tell us, that if we will be but peaceable and quiet, she will do something for us from pure good will; but that we are to expect no terms, except the most dishonourable and disadvantageous, if we should pretend to do ourselves justice by our arms. If that, Sir, is the case, we are in a more miserable situation than any people under the sun; because there is no people, however weak, whose resentment is not in some degree or other regarded, even by powers vastly superior to themselves. But it would seem that we are reduced to so despicable a situation, that, though we are in a condition to do ourselves justice, and though we may be at an immense expence in putting ourselves in that condition, yet our enemies know so well that we dare not make use of our power, that they despise and insult us for making such vain preparations. This is a very singular, and I believe an unparalleled case.

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But this behaviour of Spain may be attributed to another cause; it may proceed from our ministry being so earnest to obtain some treaty or other, that rather than want one, they were willing to take up with the very worst that could be offered; that when the parliament met, they might say something had been done in consequence of the vast expences we had been at. But, Sir, it is impossible for us to know any thing certainly of this affair without agreeing to the present motion, which I heartily give my voice for.

Sir *William Yonge:*

Sir; I wish with all my heart that gentlemen would confine themselves to the subject of the debate: I am sure it would save a great deal of time and trouble to themselves and others. We have been told, Sir, that the reason why we ought to agree to this motion, is because we did not bring the court of Spain to agree to a definitive instead of a preliminary treaty; though gentlemen have not been so kind as to give the House any reasons why this preliminary may not answer all the ends we could have proposed by a definitive treaty.

But we are told that the resolutions we came to last session ought to have directed our ministers in insisting upon a definitive treaty, or they ought not to have treated at all. This, Sir, I can by no means agree to. We did not mean by these resolutions, to tie the ministry down to enter into an immediate war; they were intended, as the hon. gentleman well observes, to serve as a direction to the ministry in the succeeding part of their negociation: but how does it appear to him, that they have not? We have, says he, got a preliminary treaty instead of a definitive one. Give me leave to ask that gentleman, Sir, if there was any thing in these resolutions that tied our ministry's hands from making a preliminary treaty till such time as a definitive one could be drawn up? If there is not, wherein are our ministers to blame, if they have concluded a preliminary treaty, in which a strict regard has been had to the resolutions of Parliament? If the situation of affairs betwixt Spain and us absolutely required that we should accept of this preliminary treaty, can the hon. gentleman pretend, that the ends for which we came to the resolutions he has mentioned, have not been answered? But, says the hon. gentleman, why was this a preliminary treaty, and not a definitive one? Did we not furnish money enough? Have we not fitted out fleets strong enough to oblige Spain to accept of our own terms? I think, Sir, that this objection admits of a very plain answer. The resolutions of a House of Parliament and its proceedings, are founded on the interests of the nation, as they appear from her laws, her constitution, and her treaties with other powers: but ministers, Sir, have a harder task; they are tied down to the resolutions of Parliament, and at the same time they are obliged to consider how far the interest of their Prince may be affected by other circumstances, which the Parliament, let their intentions be never so upright, and their discernment never so just, can have no opportunity of knowing. These circumstances, Sir, may depend on the characters of those with whom they are to negociate, and the dispositions that are made at other courts for entering into or strengthening alliances. They may depend on intrigues, which they who are at a great distance can have no notion of, and to which perhaps a little must be yielded in order to gain a great deal. For these reasons it would be the most absurd thing in the world in us to find fault with our ministers for any measure they shall enter into, unless we are absolutely sure that they had none of the difficulties I have mentioned to encounter with. 'Tis likewise for this reason that our constitution has vested the crown with the prerogative of making peace or war; because it never can be presumed that we, who are confined to an island, who can know nothing but from hearsay, whose deliberations are so slow, and whose public capacity determines at a certain period, can be thoroughly instructed in every particular that may make more vigorous or more peaceful measures necessary. But, Sir, should this House always assume to itself, without having regard to any of these considerations, a power of censuring the measures of the ministry, for not acting strictly up to what they conceive would have been proper; should we on all occasions prescribe rules to the ministry in what manner their negociations are to be carried on, and on what terms they are to insist; I think it would be very hard to point out wherein the prerogative of the crown in making peace or war consists.

I hope, Sir, I shall not be mistaken, as if I meant that we are never to offer our advice to his Majesty, and that we are to

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wink at every thing the ministry shall do. I think the greatness of a king of Britain depends on his always acting in concurrence with parliament, and that the safety of this nation consists in our having it always in our power to censure the conduct of wicked ministers. But, at the same time, Sir, we are not to prescribe the manner in which his Majesty is to act, nor, under the pretence of calling wicked ministers to account, are we to persecute or oppress good ones. But, says the hon. gentleman, if our ministers had real difficulties to struggle with, if they met with unreasonable opposition, why ought this to be concealed from Parliament? This House can make allowances for that; we will even applaud them, if they have dexterously surmounted those obstacles; and therefore these papers ought to be laid before us, that we may know the true state of the whole affair. Sir, I am of opinion, that before there is occasion to call for any papers whatsoever relating to this negociation, we ought to consider if the preliminary treaty which has been concluded, is, or is not a proper measure in itself: if we find that it is a proper measure, if we find that it answers all the intentions of the resolutions we presented to his Majesty last session, where is the necessity, where is the expediency of calling for any papers at all? If on the other hand, it should be found a destructive measure, we are at liberty to do as we shall think expedient; and his Majesty will doubtless have a great regard to our sentiments and representations.

I cannot help observing, Sir, that had the convention been a definitive instead of a preliminary treaty, the honourable gentleman, according to his own way of arguing, would have had no pretence for agreeing to the present motion. Had it been a definitive treaty, the question then, it seems, would have been upon the merits of the treaty itself; but as it is a preliminary one, the question now is not about the merits of the treaty, but upon those steps that were taken previous to it. I am not inclined to anticipate the debate upon the Convention, by pointing out the small difference that is betwixt it and a definitive treaty: give me leave to say, Sir, that the foundation that is therein laid for a definitive treaty, is entirely agreeable to the resolutions of this House; and I dare venture to say, that when it shall come to be considered, gentlemen will think it the best measure that could have been pursued in our present circumstances.

But, says the hon. gentleman, why may we not appoint a committee of secrecy for perusing the papers to be addressed for, who shall make such extracts from them as are proper for the information of this House? I am very far, Sir, from questioning the honour of any gentleman who may be of such a Committee, or from thinking that they could be capable of making any bad use of these papers: but I am humbly of opinion, that such an expedient would be far from answering the ends proposed. A committee of secrecy might indeed satisfy themselves; but I cannot see how any information from them can be satisfactory to the rest of the House. The honourable gentleman himself says, that he can form a right judgment of the Convention no other way than by seeing and perusing these papers; but, Sir, if he himself were not of that committee, he must be satisfied with the report of the committee, so that he can have it only at second-hand. Besides, there may be such a connection betwixt those matters that are improper to be communicated to the House, and those that are necessary for our information, that the extracts must be mangled, incoherent, and unintelligible. For my part, if an affair happened where it was absolutely necessary that papers should be communicated from the Crown for the better information of this House, I should not think myself at liberty to form any decisive judgment of that affair upon the report of the committee, any more than the hon. gentleman thinks himself at liberty to form such a judgment of the Convention on the report of the ministry. The reason of this will be evident to any man, who considers what a vast difference there is betwixt the seeing things, of which we are to be judges, with our own eyes, and seeing them with the eyes of other men.

As to our foreign interests, which have been so much talked of on this occasion; I think it would be against every maxim of sound policy, to revive any manner of difference that may be betwixt us and any of our neighbours at this juncture. I own, Sir, that I am not of opinion, that the sooner we oblige France to come to a declaration either one way or other, the better for this nation. I think that if we gave France any handle to join Spain on this occasion, it may tend very much to our detriment. Every gentleman who reflects how much our trade was ruined by the privateers of that nation in the last

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war, will give his voice against this nation being again exposed to the like calamities, if we can consistently and with our own honour avoid it.

The hon. gentleman, Sir, took up my worthy friend who sits near me, for saying, "That we enjoy many branches of our commerce unrivalled, and uncomplained of by our neighbours." Sir, I cannot help being of this opinion, especially when I consider the late vast increase of our shipping, and extension of our trade. These two particulars, Sir, are undeniable, and must be evident to any man, who has lived long enough to be able to compare the figure which the trading part of the nation made 30 or 40 years ago with what it does now. Any gentleman, Sir, who can do that, must be convinced that it would be the height of folly in us to endanger these advantages by a precipitate ill-timed breach with any of our neighbours.

The hon. gentleman allows that the Spanish West-Indian trade, so far I presume, as we are concerned in it, ought to be touched upon with a very delicate hand; yet at the same time he seems to be of opinion, that we ought, upon this occasion, to inquire into the abuses that may have been introduced by other nations into that trade. I think, Sir, it would be going quite out of our road if we should make the least enquiry of that kind. I believe, Sir, the great abuses committed by our merchants in the Spanish West-Indies are not unknown to many gentlemen in this House; and that the vast circulation of our own specie in our colonies in America, that the vast plenty of bullion here, and the great quantities of Spanish money current in our West-Indies, are in a great measure, if not wholly, owing to the advantages which we have reaped by that trade, and which, if we are to be determined by the words or intentions of treaties, may not be strictly justifiable.

The hon. gentleman's jealousy of the French, and his insinuation of their being indulged in privileges that are denied to us, appear to me to be very ill grounded. If that had been the case, we must before now have heard of it from our merchants trading in those places; and we must have perceived it in the sensible decay of trade amongst ourselves. I am afraid, Sir, that if we should proceed to settle accounts, as the honourable gentleman says we ought to do, we should find ourselves under very great disadvantages in some particulars. If all our treaties of commerce and navigation with the other powers of Europe were to be canvassed, Sir, I believe other powers would have more encroachments to complain of, and with more justice too, than we can. Every gentleman in this House, I dare say, knows very well that by the treaties betwixt us and Spain, every ship of ours that is found trading with the Spanish West-Indies is confiscable. But will any gentleman, Sir, take it upon him to affirm, that our merchants do not carry on that trade in defiance of all treaties? This is an abuse, Sir, that not only the Spaniards but the French and other nations have a right to complain of: for we are tied down by our treaties with them, as well as by those with Spain, not to attempt or carry on such a trade. Therefore, Sir, I think it would be very unadviseable in us, at this juncture, to awaken any differences that may be betwixt our neighbours and us, as the hon. gentleman advises. But, Sir, this nation has nothing to dread as long as that happy union, which has always subsisted betwixt his Majesty and the Parliament still continues: for though I am persuaded that his Majesty will never encourage any unjust encroachments in his subjects on those of any other power, yet we may be very well assured, while such a union subsists, no other will dare to make any such encroachments upon us.

The hon. gentleman himself allowed, that it never was the custom of this House to call for papers relating to a negociation not concluded; yet he seemed to be surprized how any body could think that his Majesty would take our agreeing to this motion amiss. In the mean time, Sir, he did not think fit to give us any reason why the papers now moved to be addressed for, ought not to be looked upon as papers relating to a negociation still in dependance. If, Sir, we are to look upon them as such, is there the least doubt that his Majesty will have very good reason for taking our proceeding in this manner amiss?

It is true, Sir, that after the treaty of Seville was concluded, the papers relating to that treaty were laid before this House; but I am far from thinking that that treaty was but a preliminary one. The stipulations contained in it appear to be full, express, and definitive. Some points, indeed, were left to be adjusted by commissaries, but these were far from being the material points of difference betwixt us and Spain at that time. They related not

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to national, but private property; therefore that treaty can never be brought in as a parallel with the Convention, which so far as it relates to private property, is definitive; though so far as it relates to national property, it is preliminary. His Majesty, who is the guardian of our national property, has thought fit to refer the points relating to our commerce to a future negociation; and shall we so far express our distrust of his royal intentions, as, in a manner, to take the negociations out of his hands? Shall we set a precedent which in future times may be so far abused as to deprive his successors of the fairest jewel of their prerogative, that of making peace or war, independent of any other branch of the legislature?

The hon. gentleman, who spoke last, said that we never yet had been wanting in our returns of gratitude to his Majesty for the regard he has expressed towards us. I hope, Sir, we never shall be wanting in such returns: if we are, we shall be wanting to ourselves; but unless it can be proved to the House, either that the papers, now moved to be addressed for, do not relate to a negociation still in dependance, or that it has been usual for this House, to address for papers relating to such a negociation, I must be of opinion that his Majesty will have reason not to think it a grateful return, should we agree to the present motion, but to look upon it as a mark of our distrusting not only his ministry's but his own intentions.

If we have strengthened his Majesty's hands, Sir, it is only in order to secure our own property; if we have been at any extraordinary expence, it is in order to save a much greater expence to the nation. Had this House always acted in the same manner, had the parliament always given the prince, when they had no reason to think he would make a bad use of it, sufficient power to make our enemies hearken to reason, the great waste of blood and treasure expended in the late war might have been prevented. To what was the bad success of all the measures of king William attributed, but to the unreasonable jealousy which a party entertained of his and his ministry's intentions? If he set a negociation on foot, if he entered into measures that tended visibly to advance the common interest, he immediately met with opposition, the measures were divulged to the enemy, and himself disabled from reaping advantage from the best and most public spirited schemes that ever were laid down. And shall we, Sir, at a juncture, which requires the most prudent conduct of our government, to oppose perhaps a more formidable power than he had to grapple with, fall into the same errors that rendered all his endeavours ineffectual? He had only to do with France; she was weaker then than she is now, and he was strengthened with alliances which it is impracticable for us now to form. If this, Sir, is rightly considered by gentlemen, as I hope it will be, they will find that the powers with which we have clothed his Majesty and his ministry, are so far from being extraordinary, that they are very moderate, and that if we have any thing to repent of, it is our not extending them farther.

I shall now, Sir, beg leave to add one or two reasons to those of my hon. friend who spoke against the motion. The dangers which this nation has to apprehend in her present situation, are not entirely from abroad. These dangers, though they are indeed formidable, would be but inconsiderable, were not our enemies abroad supported by a turbulent, disaffected faction at home. A government, in such a situation as our government is now in, would be justified by posterity, if they made some stretches of power not strictly agreeable to law: since their enemies commit so many abuses of liberty, which are so absolutely destructive of all subordination and duty. But notwithstanding the difficulties this government has to encounter, the ministry may appeal to their most inveterate enemies, if they have ever yet made any such stretch, if they have ever yet taken any measures that are not strictly agreeable to the spirit of the constitution.

This is what I believe no former ministry, under the like discouragements, could boast of. But, Sir, I think, in the mean time, that his Majesty's ministers would be very much wanting in their duty, both to their prince and country, if they should not oppose every step that may give their enemies an advantage to their prejudice. The animosities in this nation are now raised to so great a height, that a certain faction amongst us will join with any enemies, provided they could gratify thereby their unjust and invincible hatred towards his Majesty's ministers. I am apt to believe, that the faction among ourselves would be the first to cry out against us for laying all the secrets of a depending negociation open to our foreign enemies, when

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at the same time they perhaps are concerting schemes, from the discovery they thereby make, for the destruction of their country. This is no new game of that faction; we have known them before this railing at a ministry for giving advantages to their foreign enemies, while in the mean time they were entering into plots and conspiracies with that very enemy, in order to improve these advantages. For these reasons, Sir, I am against the motion.

Mr. *Sandys* :*

Sir; as his Majesty, in his speech from the throne, acquainted us, that the treaty or convention lately concluded with Spain, would be laid before us in this session of parliament; and as we must presume, that when it is laid before us and taken into consideration, some sort of proposition or motion will be made, either for approving or disapproving of that treaty: we ought therefore to have every thing laid before us that may any way relate to it, or to the long negociation that was carried on for bringing it about. When I say so, Sir, I do not mean that we are either to approve or disapprove of any thing that has been done by his Majesty. In all such cases we are to look upon what has been done, as done by his Majesty's ministers, and their doings we may censure, we may condemn, we have often too good reason to condemn. What may be the fate of this Convention, or what fate it may deserve to meet with in this House, I shall not now pretend to determine; but that we may neither justify nor condemn, applaud nor censure, without a good reason, I think it is absolutely necessary for us to know how matters stand, at present, between us and Spain; what are the chief causes of the disputes that have so long subsisted between the two nations: and what measures have been taken for clearing up, or putting an end to those disputes.

I am surprised any gentleman can think, that we can know any thing of the convention that is to be laid before us, or of the negociation that has been carried on for bringing it about, without seeing the memorials and representations that have been made to the king of Spain, or his ministers, relating to the Spanish Depredations. I hope, that on our part at least, there are no secrets between our ministers and the court of Spain, but what may be divulged to this House, or even to the whole nation; I hope the memorials and representations drawn up and sent to Spain by our ministers contain nothing but a plain representation of our rights, and of the injuries we have suffered, and an honest, though preremptory demand of satisfaction, reparation, and security. If this be the case, laying them before this House can be attended with no bad consequence: it can no way interrupt the negociations, nor can it bring a censure upon any man that was concerned in drawing them up. If I had moved for the memorials, representations, or answers, that had been delivered to his Majesty, or any of his ministers, in the name, and by the order of the king of Spain, it might perhaps have been said, that laying such papers before this House would interrupt the course, and might prevent the effect of our peaceable negociations; because the court of Spain might from thence draw pretence, for refusing to correspond or treat any longer with those, who could conceal nothing that was wrote or said to them. Though I am of opinion, that we ought, upon this occasion, to see even these memorials, representations, or answers, yet I purposely avoided including them in my motion, that there might be no pretence for making an objection against it.

It is not so much as pretended, Sir, that the treaty or Convention to be laid before us is a definitive treaty. His Majesty, in his speech from the throne, has told us, that it is not a definitive treaty: he has told us, that those grievances and abuses, which have hitherto interrupted our commerce and navigation in the American seas, and all other disputes between the two nations, except that of reparation to our fellow-subjects for their losses, remain yet to be regulated and settled by plenipotentiaries. I wish the only article that is settled, may not appear to have been settled to our disadvantage. But this is not the only thing that we are to enquire into, when we come to examine this Convention. If the court of Spain appeared to be in an humour to give us full satisfaction, with respect to all the other matters which they have been allowed of late years to dispute with us, our agreeing to such a preliminary Convention, and even our yielding a little with respect to the article that is settled, may perhaps be justified: but if, on the contrary, the court of Spain appeared to be in no humour to give us a

* The remainder of this Debate is taken from the London Magazine.

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proper satisfaction, with respect to any one of the matters now in dispute between us, considering the danger our trade and navigation lies exposed to by the unjust, and hitherto unheard of claim they have set up of searching our ships in the open seas, it was ridiculous in us to agree to any preliminaries, without having that point first settled to our satisfaction, and still more ridiculous to accept of any partial reparation for the losses our merchants and seamen have already sustained by their depredations. Therefore, when we come to examine into this Convention, the chief point that will come under our consideration must be, to know what humour the court of Spain seems to be in, and what we may expect by the delay which this preliminary Convention must occasion; and I should be glad to know, how we can form any judgment as to this point, without seeing at least those memorials and representations, which our ministers have thought fit to make to the king of Spain and his ministers; for, from what his Majesty has told us of the Convention, I am sure we can form no judgment as to this point, from any article in the Convention itself.

I do not know, Sir, what some gentlemen may think his Majesty means by ordering the Convention to be laid before us. Perhaps they may think, that we ought only to read it over, and thereupon present a polite address in the modern way, applauding the wisdom of his Majesty's measures, that is to say, the wisdom of those who advised him to take such measures. But, I must think, his Majesty does not mean any such thing. He means, I am sure, that we should not only read it, but examine it thoroughly, and that, after we have examined the whole affair to the bottom, we should give him our honest and sincere opinion. This, I am convinced, is what his Majesty means by ordering the Convention to be laid before us; and this we cannot comply with, till at least the papers now moved for be laid before us; therefore in duty to his Majesty, as well as out of regard to our own honour, we ought to agree to the motion.

Sir *Robert Walpole:*

Sir; I believe no gentleman who has the honour to be a member of this House supposes, that we are not to examine into the nature of the Convention lately concluded with Spain, or that his Majesty intends we should not. I am sure I do not suppose any such thing: on the contrary, I hope, that when it is laid before us, we shall not only examine thoroughly every article of it, but also that we shall examine into the present circumstances of affairs both at home and abroad; which we must do, before we can form a right judgment of the Convention his Majesty has agreed to. When the several articles are particularly examined, and all circumstances duly considered, we ought then to give our most sincere opinion and advice to his Majesty; and from the view I have of our present circumstances, and what I have heard or know of that Convention, I believe the opinion of this House will be, that the concluding and ratifying the Convention was one of the wisest measures his Majesty could take; and our advice, I doubt not, will be, that his Majesty should proceed upon the foundation laid by that Convention, and endeavour, by peaceable methods to put an end, by a definitive treaty, to all the disputes now subsisting between the two nations.

I shall grant, Sir, that in order to examine thoroughly into the nature of the Convention, and into the circumstances of our affairs both at home and abroad, it will be necessary for us to have a great many papers laid before us. But in calling or addressing for papers of any kind, we ought at all times to be extremely cautious, especially in calling for papers relating to any transaction which is not then finally concluded. The gentlemen who have already spoke against this motion, have said so much with regard to the danger and inexpediency of it at this time, that I have nothing to add on that head. Only, Sir, I beg leave to advance one general observation upon what they have said, and that is, that when we find ourselves obliged to take an affair into our consideration, before it is brought to a final conclusion, I do not think it would be bad policy in this House, to lay it down as an established maxim, never to address for any papers upon such occasions, but to leave it entirely to his Majesty, to order such papers to be laid before us, as he might think necessary for giving us a proper light into the affair, and such as he knew might be safely communicated.

To apply what I have said to the case now before us: it must be allowed, Sir, that the Convention lately concluded with Spain, relates to an affair not yet finally ended. It relates to an affair now under negociation between the two courts; for, I shall readily agree, that the articles of

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the Convention can at best be called but a sort of preliminary articles, which are to be further explained and perfected by a definitive treaty; and if a satisfactory treaty may be obtained by peaceable means, and in consequence of these preliminary articles, which no man can say is impossible, it would be wrong in us to do any thing, or to call for any paper, which by being made public, might disappoint so good an effect. Now, as this Convention was, as every preliminary agreement must be, preceded by a negociation, some things may have passed during that negociation, which the court of Spain would not desire to be made public, and would even look on it as a high affront, in case they should be made public. We know how jealous princes are even of what is called the punctilio of honour; and therefore we must know, that it is always dangerous to publish the transactions of a negociation till some time after it has been concluded. While such transactions remain secret, many things may be said and done by both parties without much notice, which either party would think himself in honour obliged to resent in the highest manner, in case they should be made public. Therefore, with regard to those memorials and representations that have been sent to the court of Spain, and must consequently be already known to that court, it would not, perhaps, at present, be very prudent to publish them; because it might alter the present good humour which the court seems to be in, and might render it impossible for us to obtain either satisfaction, reparation or security, any other way but by force of arms.

I shall grant, Sir, that in order to know how matters stand at present between us and Spain, the causes of our present disputes, and the measures his Majesty has taken to put an end to them, it would be proper for us to see all the papers that have been mentioned, and a great many more than have been now moved for. We cannot propose to acquire a full and perfect knowledge of these matters, and of the circumstances of affairs at home and abroad, without having a complete knowledge of all the negociations that have been lately carried on, or are now carrying on, not only between us and Spain, but between us and every other power in Europe; but this is a knowledge which every one must admit, his Majesty neither can, nor ought to communicate to parliament. I have shewn, that the communicating all those papers that are now moved for, might be of the most dangerous consequence; and even the hon. gentleman himself who moved for those papers, allows, that we ought not to desire all the memorials, representations and answers received from the court of Spain, to be laid before us; because our rendering the contents of some of them public, might put a stop to our negociations, and make the court of Spain refuse to treat any longer with us. Are not we, Sir, to apprehend the same consequence, from our rendering public the memorials and representations that have been made to the king of Spain, or his ministers? for the memorials and representations that have been made by us, must relate to, and may probably recite a great part, if not the whole substance, of those we have received.

What are we then to do in such a case, Sir? we cannot desire a full and perfect knowledge of all such affairs. We must content ourselves with such a knowledge as may be safely communicated to us, without injuring the public affairs of the nation: and we must leave it to his Majesty to judge, what may be safely communicated. We may depend upon his goodness, and the regard he has for his parliament, that he will, upon this occasion, communicate to us every paper and every transaction, relating to the Spanish depredations, that can be safely communicated: but his wisdom, and the regard he has for the honour and interest of his kingdoms, must prevent his communicating to us any thing that ought not, that cannot be safely made public; and we ought not, by an unseasonable address, to raise a contest in his royal breast, between his goodness and wisdom, or between the regard he has for his parliament, and the regard he has for the honour and interest of his kingdoms.

The resolutions we have already come to, I did not, it is true, oppose; but it was not, Sir, because I entirely approved of them. It was, because I did not see any thing in them, but what his Majesty, I thought, might comply with: I did not apprehend that by any of them, there were papers called for that might not be safely made public: but with regard to the last resolution the hon. gentleman has been pleased to propose, the case is very different. At first view of it, I see, that there are papers called for, which it may not be safe to make public: some of those papers, I think, may probably be such, as would disclose the secrets of our government, or

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interrupt, if not put a full stop to, the course of our negociations: therefore I must look upon the addresses proposed by that resolution, to be of such a nature, that there is the highest probability of his Majesty's not being able to comply with them; and whilst I have the honour to have a seat in this House, I shall always be ready to give my testimony against our resolving to desire any thing of his Majesty by an address, which I think he cannot, consistently with the honour of his crown, or the interest of his kingdoms, fully comply with.

From what I have said, Sir, I hope every gentleman will see, that there is a great difference between the addresses we have agreed to, and the address now proposed. By the former we desire nothing of his Majesty, at least so far as we can comprehend, but what he may comply with, without divulging the secrets of his government, and running the risk of defeating those negociations he is carrying on, for securing the trade and navigation of his kingdoms. By the latter we are to desire of his Majesty, what I think I have shewn he cannot, in all probability, safely comply with. This is the proper distinction between the addresses we have agreed to, and the address now proposed; and every gentleman that makes this distinction, may easily see a good reason for his giving a negative to the latter, notwithstanding his having given his assent to the former; for all those who think there is any thing desired by the address now proposed, which his Majesty cannot safely comply with, must, I think, in duty to their sovereign, give their negative to the question.

I shall conclude with observing, Sir, that it would be highly imprudent in us at present, to present any address that his Majesty could not fully comply with; for if foreign courts, and particularly the court of Spain, should be informed, that the parliament had begun to present addresses which the king could not comply with: if they should hear that his Majesty had, in the least article, refused to comply with the request of his parliament, they would immediately begin to presume, that a breach was to ensue between king and parliament: they would then begin to believe, that there is some truth in what they have so often been told, by the libels spread about this kingdom; that the people of this kingdom are a divided people; that they are disaffected to their sovereign; and that the parliament had now begun to do, what they have often done, what I hope they will always do, when there is a just occasion, which I am sure is far from being the case at present: I mean, that the parliament had begun to espouse the cause of the people against the king and his ministers. This presumption, Sir, would make not only the court of Spain, but every court we have any difference with, less pliable, or more unreasonable than they are at present; and at the same time, it would give the other courts of Europe such a contemptible opinion of us, as would of course prevent their joining in any alliance with us; by which means, we should render it not only impracticable to obtain satisfactiou from the court of Spain by fair means, but impossible to obtain it by force of arms; and as this would be one of the most unfortunate situations this nation could be reduced to, I am sure every gentleman that has a regard for his native country, and views the question now before us in this light, will join with me in putting the negative upon it.

Mr. *Pulteney:*

Sir; I wish his Majesty's name were not so much made use of in this House, as it usually is. Some gentlemen seem to affect talking in his Majesty's name of every public measure that happens to be mentioned in this House, though they know that when we enquire into any public measure, or into the management of any public transaction, we enquire into it, and we pass our judgment upon it, as a thing done, not by his Majesty, but by his ministers. Therefore, I wish they would alter a little their manner of talking, and instead of the word Majesty, make use of the word ministers, or if they please, minister. If they should say now, for example, in the present case, that we ought never to desire any thing of the minister, which we think he cannot safely comply with; it would be a more proper manner of expressing themselves, and more conformable to the rules of proceeding in parliament, than to say, that we ought never to desire any thing of his Majesty, which we think he cannot safely comply with; and I must leave it to gentlemen to consider, what sort of a parliamentary maxim it would be to resolve, that when we find ourselves obliged, when the unfortunate state the nation is in makes it necessary for us, to take an affair into consideration before it is finally concluded, we ought never to call for any

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papers upon such an occasion, but to leave it entirely to the minister, to lay, or order such papers to be laid before us, as he knew he might safely communicate to those whose business it is to enquire into his conduct. This, I confess, would be a maxim extremely convenient for ministers, and therefore I am not at all surprized to hear it come from the corner from whence it does.

But, Sir, to be serious upon the subject now before us; for considering the unfortunate situation the affairs not only of this nation but of Europe, are in at present, it is a subject of as serious a nature, as ever came before a British parliament; I must observe, that when this House resolves to take any particular and extraordinary affair into consideration, it is impossible for his Majesty to know what papers or other things may be necessary for giving us a proper light into the affair. His ministers may perhaps know, but in former ages, ministers have been known to conceal industriously from their sovereign, many things they knew; and such as they ought in duty to have acquainted him with; and therefore our parliaments never trusted to the King's ministers for giving him information in this particular. They considered themselves the affair which was to come before them; they considered what papers or other things, would be necessary for giving them a proper light; and if those papers were such as must be communicated by the crown, they addressed his Majesty, that he would be pleased to give directions for laying such or such papers before them. It is therefore from the Addresses of this House only, that his Majesty can know what papers may be necessary to be laid before us upon any such occasion; and, when his Majesty sees what we address for, he may then judge, whether the papers called for, or any of them, be such as ought not to be made public.

If the hon. gentleman's maxim were to be admitted as an established maxim for our conduct in this House, we could never address for papers relating to any public affair that had been transacted within the same century; for there is no public affair but what may probably have some papers belonging to it that ought not to be made public. At this rate, Sir, we must always leave it entirely to his Majesty, that is to say, to his Majesty's ministers, to lay no papers before us but such as they think may be safely communicated to parliament; in which case, every one must see, that we could never enquire into the conduct of any minister, while he continues a favourite of the crown; for no minister will ever think it safe to lay any paper before parliament, that may be a foundation for, or may any way support, an accusation against himself; and, upon this maxim, he would always have an excuse for not laying such papers before parliament, by saying, that they contain secrets relating to some affair in agitation, which must not be discovered till the affair is brought to a conclusion.

This shews, Sir, how ridiculous it would be to establish such a maxim, and therefore, I hope we shall continue to follow the ancient maxim of this House, which has always been, to call for all such papers as we thought might contribute towards giving us a full and perfect knowledge of the affair we were to enquire into, without regarding whether or no the papers we thought necessary for this purpose were such as might probably contain some secrets of state. If any of them are of such a nature, we may appoint a secret committee for examining into them, and reporting such parts of them as are necessary for our information; but, till his Majesty has acquainted us that some of them are of such a nature, we have no occasion for appointing such a committee. This therefore can be no objection against our addressing for all or any of the papers now proposed to be addressed for; but, for my own part, I cannot so much as imagine, that there are any important secrets, I mean such as the honour or interest of the nation is concerned in keeping; I say, I cannot imagine, that there are any such in our late negociations with Spain, or in any of our late transactions relating to the Spanish depredations. I am sure they have made no secret of the claims they have lately set up against us, nor of the insults they have put upon us: On the contrary, they seem to be fond of publishing them, that the world may know how contemptuously they have used us. I do not know but that there may be some secrets that ought to be discovered, secrets, in the discovering of which, both the honour and interest of the nation may be deeply concerned; but this surely can be no argument against our calling for papers by which such a discovery may be made; and, if any of the papers now called for can be supposed to contain secrets of such a nature, it is a strong argument for agreeing to the motion; for, without such an

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Address, we can hardly expect to have them laid before us.

If a presumption, that the papers to be called for were such as ought not to be made public, should be allowed to be an objection of any weight against the Resolutions now proposed, it must be allowed, Sir, that it was an objection of equal weight against every Resolution we have agreed to. If the governors of our plantations, or any commander in chief, or captains of his Majesty's ships of war, had not got a full reparation, nor so much as the promise of a full reparation, for the losses our merchants and seamen have sustained: If it should appear that we have got no security, nor so much as the promise of any security, for our trade and navigation in time to come; it would then, Sir, be incumbent upon us to appoint a day for resolving into a Committee to take the state of the nation into our consideration; and, in that case, I shall grant, that it would be necessary for us to address his Majesty, that he would be pleased to give directions for laying before a secret Committee to be appointed for that purpose, a full and exact account of all our late negociations; in order that we might have a full view of the circumstances the nation is in, not only with respect to its domestic affairs, but also with respect to foreign affairs. Without such a view, it would be impossible for this House to come to any proper Resolutions, or to give his Majesty any proper advice. If the nation has been brought into such distress, as to be obliged to accept of such a dishonourable and disadvantageous treaty, rather than attempt to vindicate our honour and our rights by force of arms, we cannot expect that those who brought us into such distress will ever be able to relieve us. If any relief be possible, it must come from parliament; and it is not the first time the parliament has relieved this nation from the utmost distress. But, in such cases, we must have a full view of our affairs; we must not shew such a complaisance for our ministers, as to deny ourselves any necessary information, for fear of bringing them into difficulties.

From what I have said, Sir, I hope it will appear, that there is nothing in the address now proposed, but what his Majesty may comply with, but what he certainly will comply with. If there be any of the papers now proposed to be called for, of such a nature as ought to be kept extremely secret, his Majesty may tell us so, and we may then appoint a secret committee for inspecting them, and reporting such parts of them as may be safely communicated. This may perhaps be the case, with regard to some of the papers we have already resolved to address for: there is as great a probability, that this may be the case with regard to some of them, as there is of its being the case with regard to some of the papers now proposed to be addressed for: but if there were not, it would be no reason for our not calling for a sight of papers that are absolutely necessary for our information, in a case that is to come before us, a case in which both the honour and interest, I may say, the very being of this nation, make it necessary for us to be fully informed.

In all parliamentary enquiries, the sovereign of these kingdoms can never be led by motives founded upon the honour of his crown, or the interest of his kingdoms, to refuse his parliament any thing they think necessary for their information, with respect to the affair they have resolved to enquire into: he may be led so to do, by the advice of bad ministers, who never give him such advice, but for the sake of screening themselves from that national vengeance that is ready to fall upon them. But his present Majesty has too much wisdom and goodness to follow any such pernicious advice: he knows, that the following such advice, has sometimes proved fatal even to the crown itself; and has never as yet, thank God! long preserved the guilty criminal. His Majesty's goodness will in all cases induce him to give the utmost satisfaction to his people, and from his wisdom we must presume he knows, that in giving satisfaction to his people, consists the security of his crown and the happiness of his kingdoms.

Therefore, Sir, what his Majesty may, or may not comply with, is a question that cannot enter into the present debate. The only question that can enter into the present debate is, what papers may, or may not be necessary for our information, with regard to the affair that is soon to come before us; for whatever papers we may think necessary for that purpose, his Majesty will, upon our request, signified to him in the usual manner, certainly order to be laid before us.

For this reason, Sir, the only question now under our consideration is, Whether the papers now proposed to be addressed for, are such as are necessary for giving us such a light into the present circumstances of our affairs, with regard to Spain, as

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may enable us to form a right judgment of the Convention that is, I hope, soon to be laid before us? And with respect to this question, Sir, the honourable gentleman who made the motion, has fully shewn, That the papers now proposed to be addressed for, are not only necessary, but more necessary upon the present occasion, than the papers we have already resolved to address for. Nay, it is a question that seems not to be disputed, even by those who have spoke against the resolutions now proposed; for they have grounded the whole of their reasoning upon a supposition, that some of the papers now proposed to be addressed for, may be such as ought not to be made public; and as I have shewn that this can be no argument against our addressing for them, I am persuaded every gentleman who has a real design that we should examine thoroughly into the nature of the Convention, that is to be laid before us, or that we should be able to form any judgment of it, will be as ready to give his assent to the resolution now proposed, as he was to give his assent to those we have already agreed to.

As there is nothing, Sir, in the resolution proposed, but what his Majesty may comply with, as there is nothing but what he will certainly comply with; therefore, from our agreeing to the resolution, no foreign court can presume, that a breach is like to ensue between his Majesty and his parliament; nor can they from thence be induced to believe, what the honourable gentleman says has been told them by some libels lately published in this kingdom. For my part, I know of no such libels: I do not know that it has been asserted in any libel lately published, that the people of this kingdom are generally disaffected to his Majesty and his family. I am persuaded no such arrogant lie has been asserted in any libel lately published, unless it be in some of those lately published in favour of keeping up numerous armies in time of peace. But suppose such a lie to have been published in some such a libel, I do not believe that foreign courts are such minute politicians as to build any hopes upon, or give any credit to what is asserted in such villainous libels. They build upon a better foundation, because they generally send such ministers here, as can give them a true information of the disposition of the people; and from them they know, that the people are generally well affected towards his Majesty and his family, however much they may be dissatisfied with some of his Majesty's ministers.

This, thank God! Sir, is as yet the disposition of our people. But if they should long continue under the insults they have met with; if they should be long amused with tedious and fruitless negociations, or sham treaties; if they should find the parliament supporting and applauding such measures, God knows where they may fly for relief. They may then, indeed, become generally disaffected, as well as dissatisfied; and this perhaps is what some foreign courts are driving at; but it is to be hoped they will, by the wisdom and integrity of this House, be disappointed in their aim. If they are not, the most perfect harmony between king and parliament, would add but little weight to our negociations at any foreigh court; for it is upon the affections of the people that the weight and credit of our government must always depend.

From hence we may see, Sir, that we may happen to be in such circumstances, that a harmony between King and Parliament would be a misfortune, instead of being a blessing to the nation; for, if our people should ever become generally dissatisfied with an administration, the happiest thing that could befall this nation, would be the Parliament's espousing the cause of the people, not against the King, but for the King, and against his ministers; for the cause of the King and people must always be the same; but that cause and the cause of a minister may often be different, may sometimes be in direct opposition. Therefore, if this nation should ever happen to be so unfortunate as to be under an administration generally disliked by the people, the wisest thing the Parliament could do, would be to advise, or even render it necessary for the King, to make a thorough change, as to the persons employed in the administration. Such a breach as this would be, upon such an occasion, the only means that could effectually restore the influence and the character of the nation, at all foreign courts; because they would then expect to see, in this nation, a new set of ministers, and new measures. They would expect to see a ministry chosen, and measures concerted, by the advice of a free and independent Parliament, and with the approbation of a brave and a free people; and from such a ministry, and such measures, this nation has always reaped great honour, and great advantage.

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I shall conclude, Sir, with supposing the worst that can be supposed from our agreeing to this resolution: suppose that his Majesty should be induced by bad counsel to refuse so reasonable a request of his Parliament. This indeed, is hardly to be supposed; but if it should unfortunately happen to be the case, it would be a full proof that there are some bad counsellors about his Majesty, and this discovery would be a great advantage to the nation; for it would then become our business and our duty to find out those bad counsellors, and to remove them from his Majesty's counsels. Could the removing of bad counsellors from about the person of our King, any way derogate from the weight or influence of his negociations at foreign courts? No, Sir, it would give great satisfaction to his whole people, and new vigour to all his counsels, and consequently would greatly add to the weight of his negociations at every Court in Europe. So that in the worst light in which we can put the question now before us, we must allow, that our agreeing to it is not only necessary, but that it will be attended with great advantages to his Majesty in particular, and to the nation in general; and as this plainly appears to be the case, I therefore hope it will be agreed to.

Upon a division, the question passed in the negative. Ayes 120, Noes 200.

Debate in the Lords on Motions for Papers relating to the Convention with Spain.] February 8. The duke of Newcastle, by his Majesty's order, laid before the House of Lords, a copy of the Convention between Great Britain and Spain, concluded at the Pardo, January 14, 1739. N. S. with copies of the two separate Articles, and his Majesty's and the king of Spain's ratifications, together with translations of all of them. Whereupon

Lord *Carteret* stood up and said:

My Lords; I hope your lordships will pardon me, if I shall presume to trouble your lordships, by imparting to the House some few little scruples I have, with regard to the papers delivered in to your clerk by the noble duke. Your lordships are, no doubt, sensible how much reason we all have to be jealous of every step that we now take in this important affair; you are sensible how much we have been already imposed upon in all our negociations with Spain, and how intent the eyes of all the nation are upon your lordships' proceedings on this occasion. These considerations, my Lords, will, I hope, serve to excuse my diffidence, especially when I assure your lordships that I now stand up, not with any intention to embarrass the noble duke, or any of the ministry, but to contribute, as much as I possibly can, towards your lordships having a clear and distinct notion of all this transaction.—The noble duke has been pleased to inform the House, that he has, by his Majesty's orders, communicated to your lordships the Convention between his Majesty and Spain, together with the separate articles, and the ratifications; and I think, my Lords, we ought all of us to be sensible of his Majesty's great condescension in communicating them so early in the session.—But, my Lords, I have known, where a transaction of this kind has happened, that one of the contracting powers has presented a protest, or declaration, importing, that she acceded to such or such a measure, only upon condition that the terms of that protest or declaration should be made good: nay, my Lords, I have known instances when it has been particularly expressed in such a protest, that if the terms required were not fulfilled, the whole proceeding should be invalid. My Lords, it is with the greatest reluctance imaginable that I presume to suggest that this possibly may be the case at present; I have too good an opinion of our ministry's zeal and abilities to assert that it is: but give me leave to say, my Lords, that Spain has behaved with so much insolence and injustice, that we can suppose nothing so insolent and unjust which she may not be guilty of. Our ministers, my Lords, with the purest intentions in the world, may be imposed upon; they may not foresee the consequences of such a step. My Lords, I have known it to have had very bad consequences, and therefore I am the more jealous of every transaction where any such protest may take place. If, my Lords, no such step has been taken in this transaction, as I am very far from affirming that there has, it will be of the greatest consequence to the government, that those without doors be made easy upon that head; for, my Lords, though I believe no lord here thinks that any such measure is gone into, yet I can assure your lordships that such an opinion, I cannot conceive how it arose, is entertained without doors. It will likewise be of the greatest consequence to your lordships, in the judgment you are to make

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upon this Convention, if you are informed, by authority, that no such protest, or declaration, on the part of Spain, exists. For my own part, my Lords, I frankly own to your lordships, that I am not free to give my sentiment on any one part of a transaction of this kind, without seeing the whole of the transaction. For, my Lords, the judgment which any lord of this House may form of it upon seeing the Convention alone, may be very just and right; but if the same lord considers it as clogged with a protest affecting the whole, he may see very good causes for altering his opinion. So that, my Lords, till such time as my mind is free from the most distant suspicion that such a paper may exist, I can never form a just opinion myself, nor can I communicate to, or receive from your lordships any light that may be necessary for that purpose. Your lordships are the best judges in what manner such an information ought to be communicated to the House. What I have suggested to your lordships, is, as I humbly conceive, so reasonable in itself, that I dare say the noble duke, and those who have had the honour to be in the secret of this transaction, will be extremely glad to have this opportunity of vindicating their own characters, by letting this House, and all the world see, that they have entered into no scandalous, no clandestine measures, and that, while they consulted the peace of the nation, they had a regard to its honour and interest.

The Earl of *Cholmondeley:*

My Lords; it is with the greatest satisfaction that I observe in the noble lord, who spoke last, so much candour, and such a desire to be impartially informed of the true state of affairs betwixt us and Spain. The noble lord's sentiments will have great weight with me, as I believe they will with every lord in this House. The noble lord has been so much engaged in foreign affairs, and discharged every character he filled with so much capacity, that he must be extremely well versed in things of that nature. But, my Lords, I must beg leave to put your lordships, and the noble lord, in mind, that the forms of this House are not to be dispensed with on this, or any other, occasion. Your lordships, I dare say, are sufficiently sensible how much they contribute to the continuance of our power; and, my Lords, we have as much reason to preserve them upon the present occasion, as upon any occasion I can recollect since I have had the honour to sit among your lordships.—If I am so happy as to apprehend the noble lord's meaning who spoke last, his lordship desires that the House may be informed, if there are any other papers that have been signed by our ministers here, or at the court of Spain, relating to the Convention, besides those delivered to the House. My Lords, I think the noble lord's question extremely improper to be answered here. His lordship cannot be properly informed but by one, who has the honour to be of his Majesty's council; and we cannot suppose that such a person will divulge, even to this House, a secret which perhaps he is sworn to conceal. Your lordships may, indeed, address his Majesty to know if all the papers, that have passed betwixt us and Spain, are comprehended in those that the noble duke has now delivered to the House; but, my Lords, such an Address would be quite unprecedented, and, give me leave to say, unreasonable; for his Majesty would, no doubt, order the secretary to inform the House that they are not; and if your lordships should insist on seeing them all, it would occasion a very needless piece of trouble and expence; for they have been so many, that the very copying them over must employ all the clerks in the secretaries office for some days, if not weeks. For my own part, I think I am able to form a judgment of any treaty or Convention, if that treaty or convention is laid before me. It is true, if the terms of it should run so far as to refer to a paper I have never seen, it is absolutely necessary that I should see that paper; but if that is not the case, I am to be determined by what I do see, and will consider what is laid before me as the whole of that transaction. If, when your lordships shall come to consider this Convention, you shall see reason for suspecting any such management as the noble lord who spoke last has hinted at, I shall be very willing to concur with every motion that may serve to give your lordships the necessary information; but in the mean time I shall beg leave to take it for granted, that the papers now delivered in, are all that are necessary for my forming a right judgment of this transaction; and while I do that, my presumption is certainly on the most probable side. But were I of any other sentiments, I do not think that what the noble lord has let fall ought to be any reason why your lordships should expect any immediate and direct answer. If the noble lord has a mo-

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tion to make, I shall hear it with great pleasure, and it may be now debated; but I am humbly of opinion, that if his lordship does not reduce what he has to say to a regular motion, we ought to proceed upon the business of the day.

Lord *Carteret:*

My Lords; when I threw out my distant surmises with great simplicity of heart, I did not think that they would have occasioned so long an answer from the noble lord who spoke last. What fell from me, my Lords, was, as I apprehended, so evidently calculated for your lordships' better information in this important affair, that I did not think it would have met with the least opposition. But, my Lords, from some things I observed in the noble lord's speech who spoke last, my suspicions begin to be a little confirmed. The noble lord is pleased to entertain a more favourable opinion of me than I deserve, but I must beg his lordship's pardon when I say that he has misapprehended my meaning. I did not mean, my Lords, to make any motion, nor so much as to start any difficulty; all I intended was to give the noble duke who delivered the papers, or any other who has the honour to be in his Majesty's councils, an opportunity of undeceiving the House with regard to a report, that is now very current and a very prejudicial to his Majesty's interests. I imagined, my Lords, that every lord, who is a friend to the ministry, would have been glad of such an opportunity to vindicate their integrity, and that the ministers themselves would have joyfully embraced it. But, my Lords, instead of that, to my surprize, I find it objected, that what I hinted at was not according to form, and therefore that it ought to be disregarded. My Lords, I did not intend to make a formal motion; I thought it looked much better not to do it, because what is done in consequence of a formal motion, carries an air of constraint along with it, and lays a minister under an obligation to comply; whereas, when he readily and cheerfully takes the hint, and vindicates his own and the nation's honour, he removes at once all suspicion, and leaves a very favourable impression of his own conduct.—I am as much for keeping to our forms, my Lords, as the noble lord who spoke last, or any other lord in this House; but, my Lords, I am far from thinking them equally essential on all occasions. The papers that are now communicated to the House by the noble duke were not communicated in consequence of any address to his Majesty, and therefore, my Lords, the noble duke may regularly, without waiting for any such address, if his grace pleases, inform the House, if any papers relating to this Convention besides those now given in, have been subscribed by our ministry, or by that of Spain. I do not mean, my Lords, those papers that must have necessarily preceded the signing the convention, but those that may be immediately connected with it: papers, my Lords, upon the validity of which this Convention is, perhaps, to stand or fall. If any such exist, I humbly presume, none of your lordships can doubt of their being absolutely necessary to be laid before us.—I am very sensible, my Lords, that we have no right to require the noble duke to give a full and explicit answer to this; but if his grace does, it will save the House a great deal of time; and I am so much convinced of his grace's honour and integrity, that I, and every lord, I believe, of the House, will be determined by what his grace shall say on that head. As to violating an oath of secrecy, my Lords, I think there is no danger of that; for if there is any Paper such as I have mentioned, it must be soon known to all the world, and it is already known to a great many. It is no transaction of his Majesty's council, and the owning or disowning such a thing can never affect his grace as a counsellor.

The Duke of *Newcastle:*

My Lords; your lordships must be sensible what a hardship I am laid under by being obliged to speak upon this occasion. The noble lord who spoke last has put it upon me to answer a question, which I conceive the noble lord, as a member of this House, has no right to ask, and I, as a minister, am under no obligation to answer. I thought that what was urged by the noble lord who sits over-against me, was sufficient to have prevailed upon the noble lord who spoke last, to have pushed this affair no farther. I have, by his Majesty's order, laid before your lordships the Convention, with its separate articles and ratifications. His Majesty's intention in giving these orders was, that your lordships might thereby be enabled to form a right judgment of this transaction. If any other papers had been requisite for this purpose, your lordships need not doubt of his Majesty's willingness to com-

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municate them to the House. As no such, my Lords, have been communicated, your Lordships may be very well assured that those now given in are sufficient for all the purposes mentioned by the noble lord who spoke last.—But, my Lords, as the noble lord seems to expect from me some more positive declaration as to this matter, I am very willing to go as great a length as is consistent with the character I have the honour to bear. And, my Lords, give me leave to assure your lordships, that the papers now laid before you are the only papers that have been subscribed by our ministers at the court of Spain relating to the conclusion of the convention. This, my Lords, I take upon me to affirm to your lordships, and I hope this answer will be satisfactory to the House. If any other paper was signed by our ministers on that head, it has not yet come to my knowledge, nor, I believe, of any lord in the House, and I dare venture to say, that they could not have been so long concealed.

Lord *Carteret*:

My Lords; I think the House is very much obliged to the noble duke who spoke last: his grace knows too much of this transaction to be mistaken; and, for my own part, I have no manner of doubt, that the papers now given in to the House are all the papers that were signed on the part of our ministry. My Lords, I never doubted of that; but I wish the noble duke had, with the same frankness, declared if he knew of any paper relating to, and immediately connected with this convention, that was signed on the part of Spain, and transmitted to our court. If the noble duke will affirm, that he knows of no such paper, my doubts, my Lords, are at an end. But, my Lords, if his grace shall make any difficulty to do this, I shall immediately conclude, that some secret measure, some private transaction, not fit to be communicated to the world, nor laid before your lordships, has been entered into: I shall conclude, my Lords, that however solicitous we have been to procure from Spain this convention, yet we could not even have procured that, had we not made some private concessions, that destroy all the seeming advantages which we are to reap by this convention. My Lords, I do not know what this convention is, I have heard it both blamed and approved: but let its stipulations be never so much in our favour, I, my Lords, will look upon them as mere grimace, unless the whole of the transaction be laid before your lordships. I shall not trouble your lordships any further on this head. I hope I have sufficiently explained to your lordships my meaning; but I hope no lord will be for our entering into the consideration of this Convention, before he is certainly informed of every material circumstance that has any relation to it.

The Duke of *Newcastle*:

My Lords; I thought I had before sufficiently obviated all the doubts that the noble lord entertained upon this occasion. I imagined, my Lords, that it was sufficient for the satisfaction of the House, if I declared that the papers given in, were all the papers that have been signed by our ministers at the court of Spain, relating to the conclusion of this transaction. I believe it is pretty well understood, that if our ministers, either here or at that court, have signed no other paper, there is no other paper that can affect this Convention. If, my Lords, no other paper can affect this Convention, but those now delivered in to your lordships, I humbly conceive, that your lordships have all necessary lights towards judging aright of this transaction.

Lord *Carteret*:

My Lords; I should not have again troubled your lordships upon this subject, were I not sorry to find that I have been so unfortunate as not to explain myself clearly enough to be intelligible to the noble duke. A paper, my Lords, though only signed by one of the contracting parties, in a negociation of this kind, may, in certain cases, and attended with certain circumstances, be as binding upon the party not signing, as if they had actually signed it. I do not know, my Lords, if there is any such paper relating to this Convention now existing, far less do I know in what terms it is conceived, or in what manner it was delivered. But whether there is, or is not, it is certainly reasonable that we should be acquainted with the import of every paper connected with this transaction, or that those without doors should be made easy on that head. The doubt therefore, which, with great submission, I want to be resolved in, is, Whether any paper relating to this Convention, and declaring it void, if the terms contained in that paper were not complied with, was at

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any time delivered by the ministers of Spain to those of Great Britain?

The Duke of *Newcastle:*

My Lords; I have nothing to add to what I have already declared to your lordships, but that there was, indeed, a paper given to our ministers by that of Spain, relating to the affairs of the South-Sea Company. This paper, my Lords, relates to a private transaction, betwixt the Spaniards and that Company; and I could never have imagined that it could have created such apprehensions in any body, as the noble lord seems to express. That Company, my Lords, have many transactions with the court of Spain, and if some misunderstanding sometimes happens betwixt them, it is not at all to be wondered at; but we can never suppose that their private transactions, and the concerns of the nation, depend upon one another. The Spanish ministers might, if they had pleased, have sent fifty papers to our ministers on that head, but I never imagined that any lord would have thought it material that these papers should be communicated to this House. The paper, or protest, or declaration, call it what you please, that is now in question, passed through my hands, and was some days ago transmitted to the Company. If any of your lordships are of opinion that it should be laid before the House, I shall very readily concur with the motion. My Lords, I will go farther, I will undertake to have it delivered to your lordships, as the papers now given in have been, without any motion being made for that purpose; though, my Lords, I do not think it at all material, whether it is laid before your lordships or not.

Lord *Carteret:*

My Lords; I now stand up to make a motion; but I think it very proper to return my acknowledgments to the noble duke, for condescending so readily to answer the doubt I had proposed. It was, my Lords, with the greatest diffidence in the world, that I mentioned it to your lordships; and, my Lords, it is not without a secret satisfaction, that I observe, there was at least a foundation for my suspicions. Therefore, my Lords, as the noble duke has promised, that the paper in question shall be communicated to the House, I humbly move, That the Convention, together with the separate Articles, and the several ratifications, concluded betwixt their Britannic and Catholic majesties, may be read on Tuesday next.

The Earl of *Strafford:*

My Lords; it is with a kind of surprize that I have heard what passed betwixt that noble duke and the noble lord who spoke last. In the mean time, it is no hard matter to foresee, that this Convention must employ a great deal of our time. The noble lord who spoke last has so penetrating a head, his intelligence is so good, and he has been so long used to affairs of this kind, that I have no doubt his lordship is already acquainted what the terms of this convention are. The noble duke, my Lords, besides all these advantages, has that of having actually seen this transaction, and, no doubt, has had a great hand in concluding it; so that I do not wonder if both these noble lords are for delaying our reading it some days longer. But, my Lords, as I own my comprehension is but very small, and my curiosity very great, I think we cannot do better than to have it now read for the first time, and to delay the second reading to the day moved by the noble lord. This, my Lords, in my judgment, would have two good effects: in the first place, lords can see what the nature and tendency of this Convention are, and they who are hitherto unacquainted with it, will have some time to make reflections upon it, and will come more ripe for debating it, if there is occasion, on the second and third reading. In the next place, my Lords, no lord here can be ignorant that very odd things have been said, and, I believe, very groundless surmises have been spread abroad, with regard to this Convention. These reports, my Lords, cannot fail to have made a considerable impression on the minds of many of his Majesty's subjects; and the longer, my Lords, such impressions are suffered to remain, the more difficult it is to remove them. Therefore, my Lords, as I believe the Convention will very much disappoint the mean opinion the world has now of it, I think the sooner it is made known to the public, the better. This, my Lords, is my opinion; I ask pardon if I am in the wrong; I do not know the noble duke's or the noble lord's motives for delaying the reading the Convention; I have not the honour to be in either of the noble lords secrets. I speak my own sentiments; I speak after nobody. And, besides the reasons, my Lords, I have

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given for reading the Convention just now, I have another, which is the gratifying my own curiosity, which, I own to your lordships, is, upon this occasion, wound up to a very high pitch.

This Motion was thought so very reasonable, that the former motion was retracted, and the Convention was read for the first time*.

February 22. This being the day appointed by the Lords, for taking the Convention into their consideration, before their lordships entered upon that business, the duke of Newcastle laid before them a copy of the king of Spain's declaration relating to the South Sea company, before mentioned; which declaration being read in the House,

* The following are copies of the said Papers:

Translation of the CONVENTION between Great Britain and Spain.

"Whereas Differences have arisen, of late years, between the two crowns of Great Britain and Spain, on account of the visiting, searching, and taking of vessels, the seizing of effects, the regulating of limits, and other grievances alledged on each side, as well in the West-Indies, as elsewhere; which Differences are so serious, and of such a nature, that, if care be not taken to put an entire stop to them for the present, and to prevent them for the future, they might occasion an open rupture between the said crowns: For this reason his Majesty the king of Great-Britain, and his Majesty the king of Spain, having nothing so much at heart as to preserve and corroborate the good correspondence which has so happily subsisted, have thought proper to grant their full powers, viz. his Britannic Majesty to Benjamin Keene, esq. his minister-plenipotentiary to his catholic majesty, and his catholic majesty to don Sebastian de la Quadra, knight of the order of St. James, counsellor of state, and first secretary of state and of the dispatches; who, after previously producing their full powers, having conferred together have agreed upon the following Articles.

ART. I.

"Whereas the ancient friendship, so desirable and so necessary for the reciprocal interest of both nations, and particularly with regard to their commerce, cannot be established upon a lasting foundation, unless care be taken, not only to adjust and regulate the pretensions for reciprocal reparation of the damages already sustained, but, above all, to find out means to prevent the like causes of complaint for the future, and to remove absolutely, and for ever, every thing which might give occasion thereto; it is agreed to labour immediately, with all imaginable application and diligence, to attain so desirable an end; and for that purpose there shall be named on the part of their Britannic and Catholic majesties respectively, immediately after the signing of the present Convention, two ministers-plenipotentiaries, who shall meet at Madrid within the space of six weeks, to be reckoned from the day of the exchange of the ratifications, there to confer, and finally regulate the respective pretensions of the two crowns, as well with regard to the trade and navigation in America and Europe, and to the limits of Florida and of Carolina, as concerning other points, which remain likewise to be adjusted; the whole according to the treaties of the years 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including that of the assiento of negroes, and the Convention of 1716; and it is also agreed, that the plenipotentiaries so named, shall begin their conferences six weeks after the exchange of the ratifications, and shall finish them within the space of eight months.

ART. II.

"The regulation of the limits of Florida and of Carolina, which, according to what has been lately agreed, was to be decided by commissaries on each side, shall likewise be committed to the said plenipotentiaries, to procure a more solid and effectual agreement; and during the time that the discussion of that affair shall last, things shall remain in the aforesaid territories of Florida and of Carolina, in the situation they are in at present, without increasing the fortifications there, or taking any new posts; and for this purpose, his Britannic majesty and his Catholic majesty shall cause the necessary orders to be dispatched immediately after the signing of this Convention.

ART. III.

"After having duly considered the demands and pretensions of the two crowns, and of their respective subjects, for reparation of the damages sustained on each side, and all circumstances which relate to this important affair; it is agreed, that his Catholic majesty shall cause to be paid to his Britannic majesty, the sum of 95,000*l.* sterling, for a balance, which has been admitted as due to the crown and the subjects of Great-Britain, after deduction made of the demands of the crown and subjects of Spain; to the end that the abovementioned sum, together with the amount of what has been acknowledged on the part of Great Britain to be due to Spain on her demands, may be employed by his Britannic majesty for the satisfaction, discharge, and payment of the demands of his subjects upon the crown of Spain; it being understood nevertheless, that it shall not be pretended, that this reciprocal discharge extends, or relates to the accounts and differences, which subsist, or are to be settled between the crown of Spain and the Company of the Assiento of negroes, nor to any particular or private contracts that may subsist between either of the two crowns, or their ministers, with the subjects of the

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Lord *Bathurst* stood up and spoke as follows:

My Lords; it is with the greatest concern and reluctancy imaginable, that I rise up to speak to your lordships on this occasion; at the same time I cannot help congratulating the noble lord who sits by me, on the seasonable hint he threw out the day when the Convention was laid before this House. Those hints, my Lords, have given us, have given the whole kingdom, a very great light. We

other, or between the subjects and subjects of each nation respectively; with exception however, of all pretensions of this class mentioned in the plan presented at Seville, by the commissaries of Great-Britain, and included in the account lately made out at London, of damages sustained by the subjects of the said crown, and especially the three particulars inserted in the said plan, and making but one article in the account, amounting to 119,512 piastres, 3 reals and 3 quatrils of plate; and the subjects on each side shall be entitled, and shall have liberty to have recourse to the laws, or to take other proper measures, for causing the abovesaid engagements to be fulfilled, in the same manner as if this Convention did not exist.

ART. IV.

"The value of the ship called the Woolball, which was taken and carried to the port of Campechy in the year 1732, the Loyal Charles, the Dispatch, the George, and the Prince William, which were carried to the Havanna in the year 1737, and the St. James to Porto Rico in the same year, having been included in the valuation that has been made of the demands of the subjects of Great-Britain, as also several others that were taken before; if it happens, that, in consequence of the orders that have been dispatched by the court of Spain for the restitution of them, part, or the whole of them have been restored, the sums so received shall be deducted from the 95,000*l.* sterling, which is to be paid by the court of Spain, according to what is above stipulated: It being, however, understood, that the payment of the 95,000*l.* sterling shall not be, for that reason, in any manner delayed; saving that what may have been previously received shall be restored.

ART. V.

"The present Convention shall be approved and ratified by his Britannic majesty and by his Catholic majesty; and the ratifications thereof shall be delivered and exchanged at London within the space of six weeks, or sooner, if it can be done, to be reckoned from the day of the signing.

"In witness whereof, we the under-written ministers-plenipotentiaries of his Britannic majesty, and of his Catholic majesty, by virtue of our full powers, have signed the present Convention, and caused the seal of our arms to be affixed thereto. Done at the Pardo the 14th day of January, 1739.—B. KEENE.—S. DE LA QUADRA.

First Separate ARTICLE.

"Whereas it has been agreed by the first article of the Convention, signed this day, between the ministers-plenipotentiaries of Great-Britain and Spain, that there shall be named on the part of their Britannic and Catholic majesties respectively, immediately after the signing the above said Convention, two ministers-plenipotentiaries, who shall meet at Madrid, within the space of six weeks, to be reckoned from the day of the exchange of the ratifications; their said majesties, to the end that no time may be lost in removing, by a solemn treaty, which is to be concluded for that purpose, all cause of complaint for the future, and in establishing thereby a perfect good understanding, and a lasting friendship between the two crowns, have named, and do by these presents name, viz. his Britannic majesty, Benjamin Keene, esq. his said majesty's minister-plenipotentiary to his Catholic majesty; and Abraham Castres, esq. his said Britannic majesty's consul-general at the court of his Catholic majesty, his plenipotentiaries for that purpose; and his Catholic majesty, don Joseph de la Quintana, his counsellor in the supreme council of the Indies, and don Stephen-Joseph de Abaria, knight of the order of Calatrava, counsellor in the same council, and superintendant of the chamber of accounts, who shall be immediately instructed to begin the conferences: And whereas it has been agreed by the third article of the convention signed this day, that the sum of 95,000*l.* sterling is due, on the part of Spain, as a balance to the crown and subjects of Great Britain, after deduction made of the demands of the crown and subjects of Spain; his Catholic majesty shall cause to be paid at London, within the term of four months, to be reckoned from the day of the exchange of the ratifications, or sooner if it be possible, in money, the abovementioned 95,000*l.* sterling, to such persons as shall be authorized, on the part of his Britannic majesty, to receive it.

Second Separate ARTICLE.

"Whereas the underwritten ministers-plenipotentiaries of their Britannic and Catholic majesties have this day signed, by virtue of full powers from the kings their masters for that purpose, a Convention for settling and adjusting all the demands, on each side, of the crowns of Great Britain and Spain, on account of seizures made, ships taken, &c. and for the payment of a balance that is thereby due to the crown of Great Britain; it is declared, that the ship called the Success, which was taken on the 14th day of April 1738, as she was coming out from the island of Antigua, by a Spanish Guarda Costa, and carried to Porto

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now see upon what terms Spain abated so far of the haughtiness with which she has always treated this nation, as to conclude any negociation. Before I heard this declaration read, I had considered the Convention with all the attention I am capable of bestowing; and, my Lords, even then I could not find any one stipulation in it, I could not see one article that is not, in my poor judgment, both disadvantageous and dishonourable to this nation. But, my Lords, when I consider this Convention as clogged with this Protest from Spain; when I consider it as attended with the highest marks of insolence and indignity to this kingdom on the part of that power; I know not, my Lords, in what light to look upon it. I know not what words I shall make use of, or what sentiments to express. Shall we call this Convention, my Lords, a treaty? No, a treaty is an act in which the stipulations are mutual. This Convention is an act wherein every thing is granted by the one side, and nothing stipulated on the other: But, my Lords, I will not anticipate the debate; it may be, I have said too much already; perhaps, they who are more in the secret of affairs, when the Convention comes to be under consideration, may give me reason to alter my opinion: I shall therfore confine what I have to say to a few arguments, in order to support a motion which I shall beg the liberty to make to your Lordships:—The affairs of a public company, and the affairs of a whole kingdom are, in my opinion, to be consi-

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Rico, is not comprehended in the aforesaid Convention: and his Catholic Majesty promises, that the said ship and its cargo shall be forthwith restored, or the just value thereof to the lawful owners; provided that, previous to the restitution of the said ship the Success, the person or persons interested therein do give security at London, to the satisfaction of Don Thomas Geraldino, his Catholic majesty's minister plenipotentiary, to abide by what shall be decided thereupon by the ministers plenipotentiaries of their said Majesties, that have been named for finally settling, according to the treaties, the disputes which remain to be adjusted between the two crowns; and his Catholic majesty agrees, as far as shall depend upon him, that the above-mentioned ship the Success, shall be referred to the examination and decision of the plenipotentiaries; his Britannic majesty promises likewise to refer, as far as shall depend upon him, to the decision of the plenipotentiaries, the brigantine Sancta Theresa, seized in the port of Dublin, in Ireland, in the year 1735. And the said underwritten ministers-plenipotentiaries declare by these presents, that the 3d Article of the Convention signed this day does not extend, nor shall be construed to extend to any ships or effects that may have been taken or seized since the 10th day of December 1737, or may be hereafter taken or seized: in which cases, justice shall be done according to the treaties, as if the aforesaid Convention had not been made; it being however understood, that this relates only to the indemnification and satisfaction to be made for the effects seized, or prizes taken, but that the decision of the cases, which may happen, in order to remove all pretext for dispute, is to be referred to the plenipotentiaries, to be determined by them according to the treaties.

"These separate Articles shall have the same force as if inserted word for word in the Convention signed this day: And shall be ratified in the same manner.

"In witness whereof, we the underwritten ministers-plenipotentiaries of his Britannic majesty, and of his Catholic majesty, by virtue of our full powers, have signed the present separate articles, and have caused the seals of our arms to be affixed thereto. At the Pardo, Jan. 14, 1739.

B. KEENE.—SEBASTIAN DE LA QUADRA."

Copy of the Declaration made on the Part of the King of Spain, before he ratified the Convention.

"Don Sebastian de la Quadra, counsellor and first secretary of state of his Catholic majesty, and his first plenipotentiary for the Convention which is treating with the king of England, by order of his sovereign, and in consequence of his repeated memorials and conferences that have passed with don Benjamin Keene, minister plenipotentiary of his Britannic majesty, and having agreed therein with reciprocal accord, that the present declaration shall be made as the essential and precise means to overcome the so much debated disputes, and, in order that the said Convention may be signed, does declare, in due form, that his Catholic majesty reserves to himself, in its full force, the right of being able to suspend the Assiento of Negroes, and for dispatching the necessary orders for the execution thereof, in case the company does not subject herself to pay within a short term the 68,000*l.* sterling, which she has confessed is owing on the duty of Negroes, according to the regulation of 52*d.* per dollar, or on the profits of the ship Caroline; and likewise declare, that under the validity and force of this protest, the signing of the said Convention may be proceeded on, and in no other manner. Wherefore, upon this firm supposition and that it may not be eluded on any motive or pretext whatsoever, his Catholic majesty has been induced thereto.

DON SEBASTIAN DE LA QUADRA."

Pardo, 10th Jan. 1739.

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dered as very distinct the one from the other. The interests of all the subjects in the kingdom ought, indeed, to be very dear to the crown, but more especially the interests and rights of trading companies. These rights are derived from the crown, and while the crown supports them, it supports its own rights; when it gives them up, my Lords, it gives up its own rights; it gives up the rights of the nation. But there is a great difference betwixt the particular interests, and the general rights of a company. The particular interests of a company are in the hands of private men, appointed by that company to take care of them; they ought to have no relation to the public negociations of this nation, far less ought these last to have any dependance upon them. This protest, my Lords, makes the convention, which ought to have been a solemn treaty, no farther valid than as a private negociation betwixt the king of Spain and the South Sea company shall turn out. Let his Catholic majesty's demand be ever so unjust; let his claim be ever so exorbitant, it must be satisfied, otherwise this public negociation must, it seems, be invalid. But, my Lords, this insolence of Spain does not at all surprise me; for I should be surprised at nothing which that court could do, unless I heard that they had done an act of equity and justice: What surprises me most, my Lords, is, that our minister should so far forget his character as to accept of this protest or declaration (call it what you will) and that he should, with reciprocal accord, agree, that the declaration we have now heard, should be made the essential, precise means of overcoming the difficulties that obstructed the conclusion of the Convention.—Mr. Keene is, I know, agent for the South Sea Company, as well as plenipotentiary from our court. Nothing in the world, my Lords, ought to have been more distinct than these characters. As agent for the South Sea company, he was to solicit their concerns at the court of Spain; He was to take care of their interests; he was to transmit to his constituents a proper state of every thing that passed. As a public minister, my Lords, he was to take care that no violation should be committed of any of the treaties upon which the rights of that company are founded. The uniting of these two characters in his person was of great use to him; he was sure not to be imposed upon by misrepresentations; he was sure the agent and the minister would not run counter to one another; and that the one would always be supported by the other. But, my Lords, it should appear by this declaration, that the minister has so far forgot himself, as to consent to the making the validity of this declaration the condition of the validity of the Convention. Not only so, my Lords, but he has consented with the same reciprocal accord, to own his Catholic majesty's right to suspend the assiento contract. Thus, my Lords, he has agreed, that the public transactions of this nation shall depend upon the execution of the private engagements of the South Sea Company.—My Lords, I shall say no more on this subject; only I must observe to your lordships, that either the court of Spain must have been guilty of the greatest insolence and injustice to this nation, and the minister of the highest breach of trust; or the South Sea Company must have been guilty of the greatest injustice to the crown of Spain. However that stands, my Lords, we are at present very much in the dark, and we must remain so, till such time as we are regularly informed by what means this debt was contracted, and how affairs stand betwixt the South Sea company and his Catholic majesty. This, my Lords, I say, is the only means of our coming to a knowledge of this affair; the proper information that we are to have, must be from the South Sea company themselves; we are not to trust to ministers for our information; we are not to trust to those employed by ministers. We are to have our information from the first hand; we shall be then less liable to be imposed on, and more able to give a judgment in this matter. In short, my Lords, I think it needless to trouble your lordships with many arguments in support of the motion which I am to make: I am persuaded, the reasonableness of the thing itself will speak for it; therefore I humbly take the liberty to move your lordships, That a day be appointed for examining the directors of the South Sea company, touching the sum of 68,000*l.* mentioned in the declaration given to the British minister, signed at the Pardo, January 10, which sum is, by his Catholic majesty, claimed as a debt due to him by the said company: and that the directors of the South Sea company be ordered to attend this House for that purpose.

Lord *Hervey:*

My Lords; I shall not differ much from

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the noble lord who spoke last, with regard to the treatment which the subjects of this nation have received from the Spaniards; but I am surprised to find that his lordship supposes their agreeing to treat with us on the footing stipulated by the Convention, is an aggravation of that treatment. If, my Lords, the provocations this nation has received from Spain were so very great; if the haughtiness with which she has all along behaved, was so very excessive as the noble lord has been pleased to represent it, we cannot suppose that her ministry, who certainly are sensible they are no match for us by themselves, were without well-grounded hopes of being assisted and supported by a power more formidable than their own. If our ministry therefore have taken such wise precautions, as to shew them that we are not to be intimidated by any consideration whatsoever, from obtaining satisfaction for our losses, and ample security against future encroachments: if, in consequence of this, they have been brought to treat, I think, my Lords, it is one very great point gained. It shews, at least, that they are cured of their presumption, and that the resolution of our government has had such an effect as to bring them to treat. I do not speak, my Lords, with regard to the merits of the Convention itself, this is not a proper time to enter into the particulars of that treaty, your lordships have appointed a day to take it into consideration; I only speak with regard to the effect of our late measures.—As to the behaviour of Mr. Keene, which the noble lord has so much insisted on, I think this is not a proper time to canvass it. If he has so shamefully betrayed his trust, if he has acted so inconsistently with his character, as the noble lord hath accused him of having done, the nation and parliament will undoubtedly bring him to justice; and I am sure, my Lords, I shall be the first to agree to any censure which your lordships shall think fit to inflict on him. But, my Lords, it is my opinion, though I own a very unpopular one at present, that we ought always to presume the best of those to whose hands his Majesty has thought fit to entrust the concerns of the nation, till we are well informed that they have deserved to be blamed.—I can agree with the noble lord, that the character of agent from the South Sea company, and that of plenipotentiary from the crown of Great Britain, are very different from one another, and that they ought by no means to be confounded one with the other; but, my Lords, till I am better informed, I do not think myself at liberty to think that that minister deserves all the hard things to be said of him, which the noble lord has thrown out. It is very difficult, my Lords, for this House to judge of the reasons which may have determined Mr. Keene, as a public minister, to accept this declaration; and it is still harder to judge of his motives as agent for the South Sea company. The king of Spain and that company, my Lords, must have a great many dealings with one another; it is no wonder if their affairs are very often entangled together; and therefore your lordships, give me leave to say it, are not the proper judges of the reasons that may sometimes induce their agents to use precautions, or to make concessions, that would seem very odd if they passed betwixt man and man, or one body of men and another. It is in the power of the court of Spain to put that company under very great disadvantages; and they have done it, my Lords, as often as any rupture, or even the appearance of a rupture, has happened betwixt their court and ours. And after this, are we to be surprised, if these gentlemen take all the precautions in the world to keep fair with the court of Spain? especially if we consider, that they have no reason to think we ought to plunge ourselves rashly into a war on every slight misunderstanding betwixt it and them. My Lords, if we should, there would not be wanting other powers of Europe, who would be glad to carry on that trade on the terms granted to the company. I do not know, my Lords, but that an offer of this kind may be one reason that induces the Spanish court to treat that company with so much severity. Besides, my Lords, we are not certain that the demands of his Catholic majesty are absolutely unjust. The protest just now read affirms, that the 68,000*l.* therein demanded is a debt confessed by the company to be due to his Catholic majesty. My Lords, if it is so, it must be paid, and there is no wonder if the court of Spain insist upon its being paid in the strongest terms.—Having said thus much, my Lords, in general, with regard to the nature of the company's trade, I shall beg leave to say a word or two, in answer to what fell from the noble lord who spoke last, with regard to the part which Mr. Keene has acted in this affair. The noble lord himself very justly observed, that, as agent for the South Sea company, he was to solicit

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their affairs at the Spanish court, to take care of their interests, and to transmit to his principals whatever concerned them, especially if it was in a matter of importance; that, as a public minister of this crown, he was to oppose any violation of the rights on which the trade of that company, as subjects of Great Britain, is founded. My Lords, this distinction being laid down, give me leave to observe, that there is another distinction extremely worthy of your lordships' notice, that is, the distinction of the characters of the Spanish ministers. The king of Spain, my Lords, is in this case to be looked upon, not only as a sovereign prince, but as a considerable merchant. For your lordships know, that by treaty he is entitled to a large share, I think one fourth, of the profits arising from the company's trade. Now, my Lords, this being the case, it follows, that his Catholic majesty's ministers must likewise be considered, not only as the public ministers of his crown, but as agents for his mercantile interest. On this account it is, my Lords, that, if these two characters have been confounded together, they have been so only on the part of the Spanish ministry, who ridiculously insist on their master's having it in his power, as a sovereign, to suspend the Assiento contract, in case a debt is not paid which is due to him as a merchant. Mr. Keene, my Lords, has done no more than to accept this declaration, which, as agent for the company, he was obliged to do, it relating immediately to their concerns. If he had signed it, my Lords, he might have justly been blamed; but as he has not signed it, it can be looked upon as no act of his, and consequently he is not answerable for it.—As to the motion which the noble lord has made, I think it would be extremely improper in us to intermeddle so far in the private concerns betwixt the king of Spain and the South Sea company. If the latter is wronged, there is no doubt they will, as they have done before, apply to the crown for relief; and if the crown shall find the grounds of their complaint just, they have all the reason in the world to think, that proper care will be taken of their interest. My Lords, it would be of very dangerous consequence, I think it would set a very bad precedent for us to oblige the directors of a trading company to produce their accompt-books at the bar of this House. We might thereby occasion them to discover secrets, which may affect both them and the nation: for, my Lords, there is no doubt that every trading body of men have secrets, which may be of a very honest nature, and yet it may be not only improper, but unjust to divulge them to the world. In short, my Lords, I think that we ought to consider this declaration as a thing entirely independent of the Convention; but if, in the course of our debate upon the Convention, we shall find that there is an absolute necessity for our examining the directors of the South Sea company, it will be then time enough to agree to this motion. But, my Lords, I think it would be highly improper at this critical juncture to oblige that company to expose their books, or to bring them into any necessity of appearing as parties against the king of Spain. Therefore I am against the motion.

The Earl of *Isla*:

My Lords; I should not have troubled your lordships at this time, especially after what has been observed by the noble lord who spoke last, had I not some particular reasons for thinking this motion at present very improper. The debt which the king of Spain's minister claims by this declaration is, my Lords, a debt that has, in some measure, been already allowed of by the South Sea Company; for which reason, my Lords, it ought to be left to the Spanish minister here, and the directors of that Company, to settle it the best way they can. If your lordships should interpose in the matter, the Spaniards might very justly think that the parliament of England designed to make itself a party in an affair that concerns private property, and to support that Company in an act of injustice. I do not by this, my Lords, mean, as if we ought not to take care of the interests of the subjects of this nation, if they are attacked by the court of Spain; I only mean, that we ought not to take cognizance of an affair, that properly cannot lie before us till we are applied to by the Company for relief.—I am the more strengthened in this opinion, by what I have been informed of, within a few hours, that the South Sea Company has appointed a day for considering the merits of that debt, and also for determining whether they will pay it or not; and that their paying it depends on the Spanish court's fulfilling certain conditions insisted on by them. Now, my Lords, if the Company shall think fit to pay the debt, or if the court of Spain shall think fit to grant them their terms, I can by no means see of

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what consequence this declaration can be to the Convention. Nay, my Lords, I think in whatever light we view it, it can never affect a treaty, that has been concluded and ratified. I cannot indeed pretend to account for the conduct of the Spanish minister in transmitting a paper of this kind to our court; but I am sure it lies entirely out of our road to take any notice of a paper, that is signed by one minister only, and that too upon an affair that affects only one set of men. We ought at least, my Lords, to wait the issue of the Company's deliberations on this head: if they allow the debt to be just, we save ourselves a great deal of trouble and time too; if they do not allow it to be just, and if the Spanish court shall insist on executing what is specified in this declaration, the affair will no doubt come before us in a proper manner, and we shall then have a just occasion for expressing our zeal for the rights of the nation. But in the mean time, my Lords, I think we ought to take no manner of notice of this declaration, because it is the act of a single minister, and consequently cannot at all affect a treaty which has been fully ratified by both the contracting powers.

The Duke of *Argyle*:

My Lords; since I have had the honour to sit in this House, I do not think that I ever heard a motion made, that was less liable to objections than the present. After a long tract of negociations, a very unusual forbearance, we have got a preliminary treaty from the court of Spain, but clogged with a proviso absolutely requiring a condition to be fulfilled on our part. My Lords, I readily agree with the noble lords, who have spoke against the motion, that the affairs of trade, which may occasion differences betwixt the South Sea Company and his Catholic majesty, are not properly cognizable by us; but when that court assumes to itself a right to suspend solemn treaties subsisting with our court, if their concerns in trade are not adjusted to their own liking, I think it is high time for us to interpose. The Assiento contract, my Lords, and the liberty which the South Sea Company has of sending an annual ship to the Spanish Indies, are two of the principal advantages that this nation reaped from a very long and expensive war. And, my Lords, if the Spanish court, upon every little difference with this Company, shall assume to itself a right to deprive us of these advantages, which we enjoy by so many solemn treaties, I think, if any affair ever was of public, of national concern, this is so.

The declaration we have now heard read, carries with it all the characters of a public act of that crown. It is given in and signed by his Catholic majesty's first secretary of state, and first plenipotentiary for the Convention; he tells you therein, that he gives it in consequence of repeated memorials and declarations that have passed betwixt him and Mr. Keene, his Majesty's plenipotentiary; and that it is agreed upon with reciprocal accord. My Lords, I cannot see what can be stronger than these expressions, to make it just as important and as authentic as the Convention itself. But, say the noble lords, who opposed the motion, Mr. Keene did not sign it, and by accepting it, and transmitting it to this court and to the South Sea Company, he did no more than as agent for that Company he was obliged to do. My Lords, I am of a very different opinion. As agent for that Company, he had a power of making what concessions he had a mind, at least so far as his commission reached, on the part of the Company; and if the Company impowered him so to do, he might engage for the payment of the sum mentioned in the declaration; but he was not to agree to the giving up national engagements, and solemn treaties.

If, my Lords, as the noble lord, who spoke last, insisted, this affair were of a private nature, and concerned only one set of men amongst us, I should be very far from taking up your lordships' time in speaking for the motion; but, my Lords, it appears to me to be an affair that concerns the honour of the crown, and the interest not only of the South Sea company, but of all the kingdom: it in a more special manner concerns the affair which we are to have under our deliberation in a very few days; I mean the Convention; for your lordships see that the Spanish minister, by this declaration, allows no strength, no validity to that treaty, any farther than the terms of his demand are complied with. But, my Lords, how is it possible for us to know how reasonable these demands are, unless we hear what the party concerned has to say? Shall we give our approbation to a treaty, wherein one of the contracting powers previously tells us, that the validity of the treaty does not depend either upon our approving or his Majesty's ratifying it, but upon an event that, properly speaking, has no regard to the treaty itself? So

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that, my Lords, it seems, the Spaniards are of opinion, that we are either to force the South Sea company to comply with the terms of this declaration, or we are to look upon all that has passed betwixt our ministers and theirs, as a mere farce. This, Sir, is plainly the language of the declaration, and I might challenge any man alive to make any other meaning out of it.

The noble Lord, who spoke last, said, that we ought to know the result of the South Sea company's resolution before we agree to the present motion. My Lords, I cannot at all see the expediency of that. I do not think that our deliberations ought to depend upon the resolutions of any company. I shall suppose, my Lords, what may very possibly happen; we have already appointed a day to take the Convention under our consideration; we find it to be a proper measure, and we return his Majesty an address of thanks upon it. The South Sea Company in the mean time meet and consider the demand of the Spanish court; they find that it is either unjust in itself, or that the conditions upon which they owned the debt to be just, and promised payment of it, have not been fulfilled on his Catholic majesty's part; therefore they refuse to pay it. What follows upon this? The court of Spain tells us, that the Convention is invalid, since the condition upon which they agreed to it is unfulfilled. In this event, my Lords, all we have been doing, all our debates upon this measure, must go for nothing. Therefore, my Lords, it would be certainly the wisest, as well as the most expeditious course, for us to examine the directors of the company before-hand, and be informed by them of the nature of this claim, and know if they will pay it or not. If they are satisfied of its justice, and if they are willing to pay it, we can then regularly proceed upon the merits of the Convention; but if they refuse it, and are determined not to pay it, where is the necessity of our putting ourselves to a vast deal of needless trouble, in coming to resolutions that can be of no effect?

My Lords, I cannot say I am unquestionably warranted in what I shall advance; but, if my information is right, there never was any claim more unjust than this of the Spanish court. I have heard, my Lords, they are so far from being indebted to the crown of Spain, that that crown is indebted to them, for near six times the sum pretended, by this declaration, to be owing to it. I have heard, my Lords, that this debt on the duty of the negroes is one of the most unjust, arbitrary claims that ever was; that the valuation of the dollar at *52d.* never was settled till several years after the Assiento contract was made, and that his Catholic majesty demands, that all the deficiency, that happens by their making their former payments in the dollars of the valuation they stood at when the Assiento contract was made, should now be paid in to his Catholic majesty, in the same manner as if the value of the dollar had been the same then as it is now. My Lords, if this is truth, I think there never was any demand more exorbitant; I think this declaration is a kind of a defeazance upon the whole transaction, in case such terms are not complied with, as in themselves are highly unreasonable, and which the Spaniards themselves know never will be granted.

If this, my Lords is the case, I think it is very extraordinary, that Mr. Keene shall make any such concession as is implied in this declaration at the court of Spain. If he did it in consequence of his instructions from the South Sea company, I think that company has done one of the most extraordinary things that ever was heard of; and if he had no such instructions, I think he has acted in a very unheard of manner. But, my Lords, be that how it will, he is certainly to blame in admitting the execution of a public treaty to depend on that of a private transaction. There is, my Lords, another very unaccountable circumstance in this affair, I mean that this declaration is made in due form, before the Convention is either signed or ratified. So that if the South Sea Company should refuse to pay the 68,000*l.* I dare venture to lay all that I am worth in the world, that the Spanish court will insist upon a nullity of all that has been done, and proceed in the same manner as if nothing had been done. They will tell us, that this declaration is of the same force with any article of the Convention; that they gave us fair warning of it before the Convention was signed, and that, if we had not been pleased with the terms, we were under no obligation to sign the Convention, since it was not their fault if we were not sufficiently apprised of the consequences.

But, my Lords, there is a reason I have not mentioned yet, that weighs very much with me in favour of this motion. I am not certain Mr. Keene may be warranted by his principles for agreeing to this power,

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which his Catholic majesty assumes to himself, 'of suspending the assiento of negroes, and of dispatching the necessary orders for the execution thereof.' But, my Lords, whether he had any instructions upon that head or not, I think it highly proper that your lordships should come to some resolutions, with regard to the right which the crown of Spain has of suspending a solemn treaty, such as that of the assiento contract is, whenever any difference happens betwixt it and that company. On the one hand, there is no doubt that the king of Spain has a right to demand the execution of the assiento; on the other hand, he has no right to make any arbitrary demands upon the company, he has no right to tell them that if they cannot comply with his demands, be what they will, he will suspend their contract, and seize upon their effects. I do not say that we ought to be the judges in this affair, but I think we ought to advise and support his Majesty in defending the just rights and properties of his subjects. And, my Lords, we never can know how the matter stands betwixt his Catholic majesty and the company, without having a state of the affair from the company themselves, and without knowing what their claim upon the court of Spain amounts to, as well as that court's upon the company. When we have these informations, we shall be able to judge whether this declaration is founded on justice, or whether it is no better than a shift to avoid performing their part of the Convention. But, whether this debt is justly due to the Spanish court or not, or whether the court of Spain is indebted to the company or not, I think this declaration was a very irregular, and a very extraordinary step. I think it shewed the highest disregard to his Majesty, and was a very great indignity to this nation. I shall say nothing of the weakness of our minister in accepting it, or of signing the Convention clogged in this manner. No doubt he had his reasons for it, which have not yet appeared to the world. I wish they may be to the satisfaction of the public; however, I hope your lordships will agree to the motion, as I heartily do.

The question being put, the House divided, and it was carried in the negative, 49 against 42.

Debate in the Lords on the Petitions against the Convention with Spain.] February 23d. Petitions were presented to both Houses, by the West-India merchants, by the city of London, &c. against the said Convention with Spain. The city of London's Petition to the House of Lords being presented by

The Duke of *Bedford*, his grace upon presenting it, spoke to the following effect:

My Lords; I have in my hand a Petition from a very great body of men, no less a body, my Lords, than the citizens of London. The importance of this juncture called upon them to assemble and deliberate upon the most proper means of preventing the effects of the Convention, which they apprehend to be ruinous, not only to them, but the whole kingdom, from taking place. Encouraged, my Lords, by their former experience of your lordships great indulgence, they resolved to proceed in the most dutiful manner, by petitioning your lordships to take the reasons they are ready to offer against the Convention into your mature deliberation.

Your Petitioners, my Lords, apprehend that they are too deeply interested in whatsoever affects the trade of this nation, not to express the utmost anxiety for the welfare and prosperity of the city of London, the only source of our riches. And it is with an unexpressible concern, that your Petitioners perceive that the trade to his Majesty's American colonies is still exposed to the insults of the Spaniards, who, under unwarrantable and injurious pretences, continue to stop, search, and make prizes of British vessels, navigating in the seas in America, in manifest violation of the treaties subsisting between the two crowns.

Your Petitioners, my Lords, humbly apprehend that the trade from our colonies in America, is now almost the only profitable trade which this nation enjoys, unrivalled by others; and they were induced to hope from his Majesty's known goodness, and paternal care of his people, supported by the vigorous resolutions of both Houses of Parliament, and the equipment of a very powerful fleet, that his Majesty's trading subjects, in the seas of America, as well as in all other parts of the ocean, would not only have received a full satisfaction for their losses, occasioned by the depredations of Spain, but also an undoubted security for their commerce for the time to come; and that a reasonable and adequate reparation would have been likewise obtained, for the barbarities and inhuman cruelties, exercised by that nation on the British seamen, who have had the unhappiness to fall into their merciless hands.

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Your petitioners, my Lords, most humbly beg leave to testify their great concern and surprize, to find that, by the Convention lately concluded betwixt his Majesty and the king of Spain, the Spaniards are so far from giving up their unjust pretensions of a right to visit and search our ships on the American seas, that this pretension of theirs is, amongst many others, referred to the future regulation and decision of plenipotentiaries, appointed on each side, whereby your Petitioners apprehend it is in some degree admitted.

Your Petitioners humbly conceive, that they have too much cause to fear, if the right pretended to by Spain, of searching English ships at sea, be admitted in any degree whatsoever, that the trade of his Majesty's subjects to America will become, in a great measure, dependent upon the justice and indulgence of the Spaniards, of both which they have given, for some years past, such specimens, as they humbly think this nation can have no reason to be satisfied with.

Your lordships' Petitioners beg leave further to express their apprehensions, that such a precarious situation must inevitably expose the trade to the American seas to continual interruptions, and perpetual alarms, as well as to severe losses; and that to these unhappy causes, they humbly apprehend, the present low state of the British colonies is owing; and if the cruel treatment of the English sailors, whose hard fate had thrown them into the hands of the Spaniards, should be put up without any reparation, your lordships' Petitioners humbly apprehend, it may be the means of deterring seamen from undertaking voyages to America, without an advance of wages, which neither that trade, nor any other, is able to support. Your lordships' Petitioners therefore, having laid before you the high importance which this trade is of to the nation in general, and to this city in particular, thought it their indispensable duty to represent to the parliament the fatal consequences of leaving the freedom of their navigation and commerce any longer in suspence and uncertainty, and therefore they humbly hope your lordships will take it into mature deliberation, and do therein as to your great wisdom shall seem meet.

Lord *Carteret:*

My Lords; as I was coming into the House a Petition was put into my hands, from divers merchants, and others trading to, and interested in, the British plantations in America, in behalf of themselves and many others. Your Petitioners, my Lords, seem to be the more encouraged to present such a Petition, from the consideration of the Resolutions your lordships came to last year upon this subject. I remember, my Lords, that I had the honour to suggest some things to your lordships, that put that matter in a light different from what it had ever before been considered in; and there is no wonder, if all the nation, especially those in it who are more immediately interested in the commerce of America, are surprized at the variation they observe betwixt your lordships' Resolutions, and the terms of the Convention, as now published by authority.—His lordship then proceeded to open the Petition. which set forth, That the Petitioners had last session made their humble application to parliament, setting forth the continued depredations committed by the Spaniards on the high seas of America, upon the British shipping and property; their barbarous and inhuman treatment of the British sailors on the taking of their ships, and their carrying them afterwards into slavery in Old Spain, (the Spaniards making it their constant practice to attack and board all British merchant ships they met with in the American seas, under pretence of searching for goods, which they deemed contraband, according to their arbitrary will and pleasure, contrary to the law of nations, and in manifest violation of the treaties subsisting between the two crowns) and that by these unjust and violent proceedings of the Spaniards, the trade and navigation to and from America, was rendered very unsafe and precarious, insomuch that the insurances had greatly risen on these accounts only; and that the Petitioners having been heard by their counsel, did, as they apprehend, fully make out in proofs, every one of the allegations of their said Petition, to the entire and unanimous satisfaction of parliament; upon which application, the following Resolutions were agreed upon, viz. (Here the Petitioners recited the Resolutions of the preceding session, for declaring the rights of this nation, and for addressing his Majesty to use his endeavours for the preservation of those rights; and then they went on as follows, viz.)—That a Convention had since been entered into between the crowns of Great-Britain and Spain, which his Majesty has been most graciously pleased to order to be laid before Parliament; and the same

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having been published by authority, the petitioners observe, with the utmost concern, that the Spaniards are so far from giving up their groundless and unjustifiable practices, of visiting and searching British ships, sailing to and from the British plantations, that they appear to have claimed the power of doing it as a right, by having insisted that the differences which have arisen concerning it, should be referred to plenipotentiaries, to be discussed by them, without even agreeing to abstain from such visitation and search, during the time that the discussion of this affair may last: that the petitioners are under the greatest apprehensions, since Spain has contended, that a point so incontestably clear, both by the law of nations, and all the treaties subsisting between the two Crowns, should come under debate, that the Spanish plenipotentiaries will be instructed not to give it up; and that if the freedom of our navigation and commerce, to and from our own colonies, should be left in suspence, and in a precarious situation, it must be attended with the most fatal and pernicious consequences to the petitioners, whose persons and fortunes will thereby be in the power of the Spanish Guarda Costas, without any prospect of relief, the petitioners having already too severely experienced the justice of the Spanish courts and governors, to consider them as any security; and therefore praying, that the petitioners may have an opportunity of being heard, and that they may be allowed to represent to Parliament, the great importance of our trade to and from our own plantations in America, the clear and indisputable right which we have to enjoy it, without being stopped, visited, or searched by the Spaniards, on any pretence whatsoever, and the certain and inevitable destruction of all the riches and strength derived to this kingdom from that trade, if a search of British ships, sailing to and from the British plantations, be tolerated upon any pretext, or under any restrictions or limitations, or even if the freedom of this navigation should continue much longer in this state of uncertainty. And his lordship concluded with a motion, "That the petitioners should be heard by themselves or counsel, if they thought fit."

The Earl of *Isla*:

My Lords; I am very ready to acknowledge the importance which the body of merchants trading to America is of to this House; and no lord shall be more ready than myself to concur in every thing that can contribute to their relief. But, my Lords, I own to your lordships, that I wish they had applied for it in a more decent and dutiful manner. I am very sensible, my Lords, that it is the privilege of every man, and every body of men, in this nation, to petition the Parliament: but then, my Lords, these petitions ought to be brought up in such a manner, as may shew that the petitioners have nothing else in view, than to obtain justice, by the most lawful and the most dutiful means. Petitioners, my Lords, are not to come up tumultuously to Parliament, as if they were resolved rather to force justice, than petition for it. Besides, my Lords, petitions of this kind ought to be founded on an apprehension which the petitioners have, that the House may not be thoroughly informed of their rights, and therefore they humbly beg leave to explain them more fully. The petitions, my Lords, we have now heard, appear calculated to serve private and mean purposes, and to inform us of things that have been already fully debated, and are thoroughly understood. There are no real facts in these petitions, but what must occur to every lord, when the Convention shall be debated; and if the petitioners apprehend that we are to approve of this Convention, if it shall not be found for the interest and honour of the kingdom, I think, my Lords, they pay but a very sorry compliment to your lordships' justice. I should be glad, my Lords, to know how they came to suppose such a thing. It can proceed from no good principle; and I am of opinion, that it betrays rather a spirit of faction, than of submission to the determination of their superiors. However, my Lords, I am far from thinking that it may not be proper to hear what the Petitioners have to say on the subject of the Petition; the consideration of this Convention will, no doubt, occasion a good deal of enquiry into the commerce of America, and manner of navigation; therefore, my Lords, I am very willing to give my voice for their being heard by themselves at the bar of your House.

The Lord *Delawar*:

My Lords; precedents have always been thought the proper guides to this House, in all matters of form; and I have in my hand a precedent, which, in my humble opinion, comes fully up to the

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affair now before us: it is, my Lords, the case of the British merchants, when the treaty of commerce betwixt France and England was concluded, at the latter part of the reign of queen Anne. The interest of Great-Britain, my Lords, was as much concerned in that question, as in any that has happened since: we were then upon the point of concluding a treaty of commerce, which must have been destructive of the trade of this nation, and raised the most formidable rival of our power upon the ruin of our merchants: but, my Lords, happily for us, the genius of the nation prevailed over all the arts of a corrupt ministry, who had already sacrificed but too much of our national honour, by concluding a weak and disadvantageous peace. The merchants, my Lords, were heard at the bar of this House against the treaty; they shewed how destructive it would prove to the trade of this nation, if ever it should take place; and this House, my Lords, had so much regard to what they advanced, that the treaty, at least those Articles in it that were prejudicial to our interests, was thrown out. But, my Lords, I do not find by your lordships' Journals, that the merchants were then allowed any counsel; nor do I remember, for it happened in my time, my Lords, that they asked any: they were too sensible of your lordships' indulgence, and tenderness for their interests, to doubt of their being very safe in your hands, without having them represented by lawyers. All, my Lords, that, in the present case, we have to do, is, I humbly conceive, to examine into facts; and we can easily judge from them, how far this Convention is for the advantage of this kingdom. I do not see the least occasion, my Lords, for law; it may perplex and puzzle, but it can never direct nor inform us in this case. Therefore, my Lords, especially, as I conceive that there is no precedent of our allowing any in the like circumstances to be heard by their counsel, I think it will be sufficient if they are heard by themselves, at the bar of the House, as to the facts upon which the allegations in their Petition are founded.

Lord *Carteret:*

My Lords; the case of the Petitioners is of a very extraordinary nature; so extraordinary, my Lords, that I do not believe, if we consider it in all the lights it will admit of, that ever the like was brought before your lordships, and, consequently, there can be no precedent by which we can determine the present question. I, my Lords, was, it is true, not very old, when the precedent brought by the noble lord happened: but, my Lords, I was not so young but that I could make some observations, that have been of use to me since; and my Lords, give me leave to say, that nothing could differ more from the case of the merchants at that time, than the case of your Petitioners now. The merchants were heard against the treaty of commerce, my Lords, not in consequence of a Petition to your lordships. My Lords, you thought fit, when that treaty was communicated to you, to send for the merchants; you examined them; you encouraged them, my Lords, to declare their grievances; your lordships yourselves were counsel for them; for, my Lords, you found their objections so strong against the treaty, that it was thrown out. How does this tally with the case now before us? Your Petitioners have been great sufferers by the Spaniards, and they see a peace ready to be concluded, in which, they apprehend, not only their future interests may be neglected, but their past wrongs are not sufficiently repaired. My Lords, this makes them parties; and it has ever been a rule with the Parliament of Great Britain, to hear all parties by counsel, when any thing depends before either House, which they conceive may affect their properties. It is true, my Lords, that the legislature are the best judges of the manner in which the general rights of this nation are to be secured; but, I believe we shall not be very fond of approving any measure that may encroach upon private property. The merchants who were concerned against the treaty of commerce with France, my Lords, had no private property at stake; all that was then to be considered was, how far the trade of the nation would be affected by that treaty; therefore there was no occasion for counsel, a bare representation of facts was sufficient for that purpose: but, my Lords, that is not sufficient now; there are many claims of our merchants to be discussed; we are to hear from them, or their counsel, the grounds of their claims; and we are to consider upon what foundation our commissaries proceeded, when they took upon them to make such large deductions from those claims. My Lords, we do not know what particular intricacies there may be in such

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an enquiry; and therefore I cannot but think, that it would be doing a piece of hardship to the petitioners, if we refused to hear them in any manner that they think can best serve their purposes.—But, my Lords, besides the reasons I have already advanced, to shew that the case before us, and the precedent brought by the noble lord, are no way parallel, I have another reason for allowing the Petitioners to be heard by counsel, I do not doubt, my Lords, of our having as sensible and as honest men among the Petitioners, as there are in any country: but, my Lords, give me leave to say, that few ages and few countries produce such a man, as he who was the mouth of our merchants upon that occasion: my Lords, where he spoke, there was no occasion for counsel; he talked, my Lords, like a statesman, a lawyer, and a merchant at once: I do not know, my Lords, if ever we had a greater man, in his way: therefore, my Lords, unless we could be sure of there being such another man among your Petitioners, at present, I think we ought, by all means, to hear them by counsel, if they should think fit. Perhaps, my Lords, there may be no occasion for it; perhaps, the information we may receive from themselves, will be sufficient to determine us: but, my Lords, I think their case is so hard, and so very singular, that we ought rather to suggest advantages to them, than deprive them of any advantages for which they may petition to us.

Lord *Delawar:*

My Lords; it is next to impossible, that any two cases should be so exactly parallel, as that the one should serve as a precedent to the other in every respect: the present case, my Lords, is as much parallel to the precedent I have brought, as I believe, any case ever was to another; if this petition never had been presented, I dare say, my Lords, we should have thought fit to have heard what our merchants had to say upon this subject: I think, my Lords, it is extremely reasonable that we should receive from them all the information that is possible; but, at the same time, my Lords, I am for our proceeding in the same manner, as if this petition never had been brought up. The noble lord who spoke last, must allow, that if this petition never had been presented, the petitioners would have had no right to claim to be heard by counsel: and, my Lords, I dare say the noble lord will admit, that their interest would have been as safe then as now. Can any man say, that, when the treaty of commerce with France was examined, the merchants of Great Britain were under any disadvantages, in not being heard by counsel? My Lords, I dare say, he will not. And, my Lords, give me leave to say, that the treaty of commerce was a subject that afforded as great room for lawyers to speak upon, as any thing that can possibly occur in our proceedings upon this Convention.

The Earl of *Abingdon:*

My Lords; I own to your lordships, that I do not look upon this question in the same light with the noble lord who spoke last: I think, my Lords, a great many things will come to be considered by us, when the Convention shall be debated, that we cannot learn from our merchants: one of the most material points of difference betwixt Spain and us, my Lords, is the right which, it is plain, they claim, to a sovereignty in the seas of America; this becomes a question in the civil law; and, my Lords, give me leave to say, it is such a question, as, I believe, few lawyers we now have can put in a proper light for our information; I am sorry to say it, my Lords, but I do think, that the study of the civil law is too much neglected in this country; and I am afraid, that when we enter upon that discussion, we shall be very much obliged to the noble lord who sits over against me, (the earl of Isla) and who has already spoke in this debate: his lordship, and the other lords of his country, I believe my Lords, know more of the civil law, than most lords of this country have, from their education, had opportunities of knowing. It is, my Lords, a part of the education of the noblemen and gentlemen of that country; and if the noble lords of that country should happen to be all of one mind, with regard to this point, I do not see how we can come at any sufficient knowledge of what may be said on the other side of the question: therefore, my Lords, I am entirely for agreeing to the motion, and granting the petitioners all the indulgence that they can ask in reason, or we can grant in justice.

The *Lord Chancellor:*

My Lords; it is with the utmost pleasure that I see dispositions so favourable for the trading interest of this nation prevail among your lordships. My Lords, I think the only contention in the present

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case among your lordships is, who shall favour the merchants most. The reason why the two noble lords are of opinion they ought to be heard only by themselves, seems to be, because a plain matter of fact, honestly told by a merchant, will make a more deep impression in the mind, and contribute more to your lordships' information, than it could do with all the pomp and embellishments of artificial oratory. The other lords are of opinion, and, indeed, I own myself to be of the same opinion, that the petitioners ought to be denied no favour they can reasonably ask; and that some points of law may arise proper for lawyers to represent. My Lords, it is true, that at present I do not foresee any particular intricacy of that kind, but it is as true, that such a intricacy may arise, and therefore I can see no inconvenience attending our indulging the petitioners in their request; at the same time, I think it is but of very little consequence, either one way or another; the interests of the petitioners are in either event safe, when your lordships are judges; and, I dare say, if your lordships were of opinion, that our complying with this motion could any way contribute to your farther information, the House would unanimously agree to it. In the mean time, my Lords, I am for indulging the petitioners, if the noble lords who made and supported the motion, shall think fit to insist upon it.

The Earl of *Chesterfield:*

My Lords; nobody will, I believe, suspect my zeal for the relief of our suffering merchants. Their wrongs call aloud for reparation; and the nation requires that the strongest security should be given for the preservation of her rights in time to come. I wish both these, my Lords, may have been sufficiently taken care of in the Convention; but I would not anticipate your lordships' debate on that subject; I cannot help saying, however, that to me it is a most unfavourable symptom of its being for the good of the nation, when I see so strong an opposition made to it without doors, by those who are the most immediately concerned in its effects.

The question with your lordships is, Whether counsel ought to be allowed to the petitioners, or not. My Lords, I think this question ought to have admitted of no debate. If the petitioners desired to be heard by counsel, I think it was reasonable they should. I think, my Lords, no precedent should be brought to debar them of any indulgence they can, consistently with justice, ask. My Lords, if there are no precedents in our journal for hearing them by counsel, we ought to make a precedent in this very case, if the petitioners shall think fit to insist on its being for their advantage, or necessary for our better understanding the allegations of their petition.

But, my Lords, I own myself to be so far of the noble Lord's opinion who spoke last, that it is a very indifferent matter to the petitioners whether they are heard by counsel or not. I can see no advantage that counsel can be to them in their present situation. Lawyers, my Lords, can be of no service in giving us either clearer or truer information; and, my Lords, if we sincerely want to know the truth, and nothing but the truth, we are to hear it from the mouths of the merchants themselves; because, my Lords, it is their interest to speak truth, and interest never lies. Let us, therefore, my Lords, hear them by themselves; and I dare say, your lordships will find that their grievances have been of such a nature, as to require no embellishments of language to recommend them to your lordships' consideration. I dare say further, that your lordships, at the same time, will find the necessity of our future security so plainly pointed out as to stand in need of no terms of law to prove it. Thus, my Lords, we shall hear the language of the heart, a language we may safely trust to; a language, my Lords, which I am afraid has been little talked, has had but little influence in the conferences that preceded this Convention. As for counsel, my Lords, if it be found necessary, the petitioners are still at liberty to apply for it: But I say, my Lords, let us in the mean time hear the merchants themselves, and if justice shall be denied them where justice is expected, all the kingdom, my Lords, all Great Britain will be their counsel.

The question being then put, That the petitioners be heard by themselves at the bar of the House, when the Convention shall be read a second time, it was unanimously agreed to. The Lords having heard the merchants upon their petition against the Convention, and having examined several witnesses, appointed the 1st of March for taking farther into their consideration the said Convention.

Debate in the Commons on the Petitions*

* From the London Magazine.

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against the Convention with Spain.] Feb. 23. A Petition of divers merchants, planters, and others trading to and interested in the British plantations in America, in behalf of themselves and many others, was presented to the Commons and read; shewing, "That the petitioners made their most humble application to this House the last session of parliament, setting forth the continued depredations committed by the Spaniards on the high seas of America upon the British shipping and property, their barbarous and inhuman treatment of the British sailors on the taking of their ships, and their carrrying them afterwards into slavery in Old Spain, (the Spaniards making it their constant practice to attack and board all British merchant ships they met with in the American seas, under pretence of searching for goods, which they deemed contraband, according to their arbitrary will and pleasure, contrary to the law of nations, and in manifest violation of the treaties subsisting between the two crowns,) and that by these unjust and violent proceedings of the Spaniards, the trade and navigation to and from America, was rendered very unsafe and precarious, insomuch that the insurances had greatly risen on these accounts only; and that the petitioners having been heard by their counsel before a Committee of the whole House, did, as they apprehend, fully make out in proofs every one of the allegations of their said petition, to the intire and unanimous satisfaction of the House, upon which application this House came to the following Resolutions: [Here follow the Resolutions, for which see p. 728.] —That a Convention hath since been entered into between this crown and that of Spain, which his Majesty has been most graciously pleased to order to be laid before this House; and the same being published by authority, the petitioners observe with the utmost concern, that the Spaniards are so far from giving up their groundless and unjustifiable practice of visiting and searching British ships sailing to and from the British plantations, that they appear to have claimed the power of doing it as a right, by having insisted that the differences which have arisen concerning it should be referred to plenipotentiaries, to be discussed by them, without even agreeing to abstain from such visitation and search during the time that the discussion of this affair may last; that the petitioners are under the greatest apprehensions, since Spain has contended, that a point so incontestably clear both by the law of nations and all the treaties subsisting between the two crowns, should come under debate, that the Spanish plenipotentiaries will be instructed not to give it up; and if the freedom of our navigation to and from our own colonies should be left in suspence, and precarious, it must be attended with the most fatal and pernicious consequences to the petitioners, whose persons and fortunes will thereby be in the power of the Spanish Guarda Costas, without any prospect of relief, the petitioners having already too severely experienced the justice of the Spanish courts and governors, to consider them as any security; and therefore praying, that the petitioners may have an opportunity of being heard, and that they may be allowed to represent to this House the great importance of our trade to and from our own plantations in America, the clear and indisputable right which we have to enjoy it, without being stopped, visited, or searched by the Spaniards on any pretence whatsoever, and the certain and inevitable destruction of all the riches and strength derived to this kingdom from that trade, if a search of British ships sailing to and from the British plantations be tolerated upon any pretext, or under any restrictions, or even if the freedom of this navigation should continue much longer in this state of incertainty."

This Petition was ordered to be referred to the consideration of the Committee, who were to consider of the Convention; and that the Petitioners, if they thought fit, might be heard upon their Petition, by themselves, before the said Committee.

The Sheriffs of London presented to the House a Petition of the lord-mayor, aldermen, and commons; which Petition set forth, "That the citizens of London are too deeply interested in whatever affects the trade of this nation, not to express the utmost anxiety for the welfare of that only source of our riches; and it is with a concern the Petitioners are unable to express, that they perceive the trade to his Majesty's American colonies still continues exposed to the insults of the Spaniards, who, under unwarrantable and injurious pretences, continue to stop, search, and make prizes of British vessels navigating the American seas, in manifest violation of the treaties subsisting between the two crowns; and that the Petitioners apprehend that the trade from these his Majesty's kingdoms to his American colonies

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is of the utmost importance, and almost the only profitable trade this nation now enjoys unrivalled by others; and that the Petitioners were induced to hope, from his Majesty's known goodness and paternal care of his subjects, supported by the vigorous Resolutions of both Houses of Parliament, and the equipment of a very powerful fleet, that his Majesty's trading subjects in the seas of America, as well as in all other parts of the ocean, would not only have received a full satisfaction for their losses occasioned by the depredations of Spain, but also an undoubted security for their commerce for the time to come; and that a reasonable and adequate reparation would likewise have been obtained for the barbarities and inhuman cruelties exercised by that nation on the English seamen who have had the unhappiness of falling into their merciless hands; and expressing their great concern and surprize to find by the Convention lately concluded between his Majesty and the king of Spain, that the Spaniards are so far from giving up their, as the Petitioners apprehend, unjust pretensions of a right to visit and search our ships in the seas of America, that this pretension of theirs is among others referred to the future regulation and decision of plenipotentiaries appointed on each side, whereby the Petitioners apprehend it is in some degree admitted; and that the Petitioners conceive they have too much cause to fear, if the right pretended to by Spain of searching British ships at sea be admitted in any degree whatsoever, that the trade of his Majesty's subjects to America will become so precarious, as to depend in a great measure upon the indulgence and justice of the Spaniards, of both which they have given, for some years past, such specimens, as the Petitioners think this nation can have no cause to be satisfied with; and expressing the apprehensions of the Petitioners, that such a precarious situation as this is, must inevitably expose the trade to the American seas, to continual interruptions and alarms, as well as several losses; and that to these unhappy causes, the Petitioners apprehend the present low state of the British colonies in America may in a great measure be attributed; and if the cruel treatment of the English sailors, whose hard fate has thrown them into the hands of the Spaniards, should be put up without any reparation, the Petitioners apprehend it may be the means of deterring seamen from undertaking voyages to the seas of America, without an advance of wages which that trade, or any other, will not be able to support; and that the Petitioners therefore having laid before this House the high importance this trade is of to the kingdom in general, and this city in particular, thought it their indispensable duty to represent to this House the fatal consequences of leaving the freedom of navigation any longer in suspence and uncertainty; and therefore expressing their hope, that this House will take it into mature deliberation, and do therein as to the House shall seem meet."

Which Petition was referred to the same Committee.

A Petition of the master, wardens, assistants, and commonalty of the society of merchants adventurers within the city of Bristol, under their common seal, was presented to the House, and read: which Petition being the same in substance as that of the West India merchants just recited, was referred to the same Committee.

A Petition of the several persons whose names were thereunto subscribed, owners and freighters of two British ships taken by the subjects of his Catholic majesty, after the signing of the preliminary Articles of Peace by the two contending powers, Great Britain and Spain, in behalf of themselves and the rest of the sufferers, was presented to the House and read; setting forth, "That one of the aforesaid ships, called the Betty Gally, commanded by Richard Copithorne, was taken on the 29th of June 1727, N. S. in the Mediterranean sea, on her voyage from Messina, by a Spanish privateer under Turkish colours, after five hours engagement, wherein three of his men were killed, the Petitioner Richard Copithorne and three more wounded, and for nine days kept naked; and after other inhuman usage, the said ship was carried into Malaga, and on the 14th of October following was there condemned; and that the other ship, called the Loyal Gally, commanded by William Pugsley, was also taken on the said 29th of June 1727, N. S. in the same seas, on her voyage from Leghorn, by another privateer, and carried into Malaga, and on the 14th of October following was also condemned; and that the preliminary Articles were signed at Paris the 31st of May 1727, N. S. which was 29 days before the said ships were taken; and upon the 19th of June 1727, his Catholic majesty accepted and signed the said Preliminaries;

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and upon the 23d following all hostilities ceased at Gibraltar and the camp of St. Roche; and upon the 26th of the same month, the cessation of arms was published on board the British fleet, and also at the same day at Malaga; and that the Petitioners apprehend they are entitled to satisfaction, as being expressly provided for by the 5th and 7th Articles of the Preliminaries in the following words: Article 5th. 'Immediately after the signing of the 'present Article, all hostilities whatsoever, 'if any have happened to be begun, shall 'cease; and, with respect to Spain, within 'eight days after his Catholic majesty shall 'have received the signed Articles.' Article 7th. 'If after the signing of these 'preliminaries, any disturbances should 'happen to be raised, under any pretext 'whatsoever, or acts of hostilities com-'mitted between the subjects of the con-'tracting powers, either in Europe or in 'the Indies, they shall by joint assistance 'repair the damages sustained by their 'respective subjects.' And that frequent applications have been made in the most respectful manner by the Petitioners, who have hitherto received no satisfaction, although they have given in their respective claims upon oath, conformable to the method prescribed for that purpose in the London Gazette of the 9th of April 1730; and that the Petitioners fear they are excluded from any satisfaction by the present Convention, they having lately been informed by a message from one of the commissaries, that the king of Spain would not allow of any claims to be good, but for such ships only as were taken in Europe after the 2d of July, 1727, N. S. and therefore praying the House to take the hardships the Petitioners labour under into consideration, that they may have such assistance and relief as the case requires, and as to the House shall seem meet."

This Petition was likewise referred to the same Committee.

Feb. 26. A Petition of the Merchants trading from the port of Liverpool to his Majesty's plantations in America, on behalf of themselves and many others concerned in that trade, was presented; setting forth the same in purport and manner as that of the West India merchants.

Likewise, a Petition of George Packer, Richard Farr, Thomas Ross, and Thomas Roach, of Bristol, (owners of the ship Sarah, Jason Vaughan master) in behalf of themselves and others interested in the said ship, her cargo and freight, was presented; setting forth, "That on the 1st day of June 1738, the said ship sailed fully laden from the island of Jamaica, directly for the port of Bristol, but, after attempting the windward passage for about 17 days without success, was obliged to return and make her voyage through the gulf of Florida; and on the 29th of the same month, in the latitude of 24 degrees and 28 minutes, as the said ship was proceeding on such her voyage, and being then about 55 leagues distant from the west end of the isle of Cuba, she was with her whole cargo seized by a Spanish man of war, and carried into the Havannah, there condemned as a prize, contrary, as the Petitioners presume, to the law of nations and the subsisting treaties; the value of which said ship and cargo, at the time of such seizure, as the Petitioners are advised, was 9,000*l.* sterling and upwards; and that the master and mariners of the same ship were imprisoned, and otherwise most inhumanly treated by the captors, and carried by them into Old Spain, where the said master yet continues a prisoner; and therefore praying the House to take the premisses into consideration, hear the Petitioners by themselves or counsel, and grant such relief thereupon, as to the House shall seem meet."

And also a Petition of the Trustees for establishing the colony of Georgia in America, was presented; setting forth, "That his Majesty, by his royal charter bearing date the 9th of June 1732, granted to the Petitioners and their successors for ever, seven undivided parts of all those lands, countries, and territories in that part of South Carolina in America, which lies from the most northern stream of the Savannah river, all along the sea coast to the southward, unto the most southern stream of the Alatamaha river, and westward from the heads of the said rivers in direct lines to the South Seas, with the islands in the sea lying opposite to the eastern coast of the said lands, within 20 leagues of the same; all which his Majesty thereby made, erected, and created one independent and separate province, by the name of Georgia; that John lord Carteret (the Proprietor of the other undivided eighth part of the said lands, countries and territories, which his Majesty granted to the Petitioners) by indenture bearing date the 28th of February 1732, granted and released all his right and property in the undivided eighth part of Georgia, in the same manner, to the Petitioners and their successors for ever;

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and that the province of Georgia was granted to the petitioners in trust for settling and establishing a regular colony in the southern frontiers of Carolina, and not for any benefit or profit whatsoever to the petitioners; and that by divers sums of money granted by parliament for this purpose, and by voluntary contributions, the petitioners have been enabled to send at several times poor British subjects, and foreign persecuted and other Protestants, to settle in Georgia, who, as well as others that went thither at their own expence, have erected houses and cultivated lands in several parts of the province, and particularly in the northern and southern parts thereof; and whereas in a letter from M. Geraldino (then agent for the king of Spain) to his grace the duke of Newcastle, bearing date the 21st of September 1736, (a copy whereof was sent to the petitioners by the command of her late majesty when guardian of the kingdom, for the petitioners' answer thereto) it is asserted, that the colony of Georgia, being to the southward of the colony of Carolina, is without dispute on the territories of the King his master; and whereas by a Convention between Great Britain and Spain concluded at the Pardo the 14th of January last, N. S. it is agreed, that the regulation of the limits of Florida and Carolina should be committed to plenipotentiaries to confer and finally regulate the respective pretensions of the two crowns, according to the treaties therein mentioned; that therefore the petitioners, in discharge of that great trust, which his Majesty has been graciously pleased to repose in them, and being fully satisfied of the undoubted right and title of the crown of Great Britain to the said province of Georgia, think it their indispensable duty to lay this state of their case before this House, and to implore their protection in behalf of this part of the dominions of the crown of Great Britain in America, intrusted to the care of the Petitioners; and also in behalf of his Majesty's subjects in Georgia, for whose safety and welfare the petitioners are deeply concerned.

Some doubts arising in the House whether the merchants should be heard by their counsel,

Mr. Alderman *Perry* spoke to the following effect:

Sir; from the number of petitions that are now ready, or preparing to be presented to us, against our late Convention with Spain; from the rank and character of the several petitioners; and from the allegations set forth in the petition that is now before us; we have great reason, I think, to conclude, that our Convention is far from being such a one as it ought to be. From the great and considerable bodies of merchants that have petitioned, or are preparing to petition against it, and from our seeing not so much as one petition in its favour, we must conclude, that the whole body of our merchants think it a most dishonourable, disadvantageous and dangerous treaty. On the other hand, Sir, we ought in charity to believe, that our ministers who negociated this Convention, and our ministers who advised his Majesty to ratify it, thought it either a good one, or at least, the best that our present circumstances would permit us to insist on. Therefore, when this Convention comes to be examined in this House, we ought to consider ourselves as judges in an affair in which the whole body of our merchants, planters and sailors are plaintiffs, and our ministers and negociators defendants; and in an affair of such importance, an affair in which the parties concerned are of so great consequence, surely it will be allowed, that it behoves us not only to have the best information both as to matters of right and matters of fact, but also to have all the proofs and arguments that can be brought upon either side of the question, stated and laid before us in the most methodical, the fullest, and the clearest light.

For this reason, Sir, it is, I think, absolutely necessary for us, not only to refer this petition to the committee who are to consider of the Convention, which I am confident no gentleman will oppose; but I likewise think it absolutely necessary to allow the petitioners to be heard before that committee, either by themselves or counsel, with regard to this Convention, which they so heavily, and I am afraid, so reasonably complain of; and, if our ministers and negociators have a mind to justify their proceedings, they may move, or get one to move for them, that counsel may at the same time be heard in favour of this child of theirs, which, like other monstrous births, is in some danger of being smothered upon its first appearance in the world. As I have no intimate correspondence with them, nor with any one of them, I cannot pretend to guess at what they may in this case resolve on; but, as I have always had a good correspondence with

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our merchants and planters, I may venture to say, that such of them as are now supplicants at our bar, will be glad of being admitted to be heard by their counsel upon this occasion; and will be far from grudging any expence, that may be necessary for giving us a full and clear view of the important affair that is soon to come before us: therefore I shall conclude what I am to say upon the present occasion, with a motion to this effect, "That the Petition now presented to us be referred to the consideration of the Committee of the whole House, who are to consider of the Convention between Great Britain and Spain, concluded at the Pardo, Jan. 14, 1739, N. S. and the separate articles belonging thereunto, with the several ratifications thereof; and, that the petitioners, if they think fit, be heard upon their Petition, either by themselves or counsel, before the said Committee."

This, Sir, I take to be so reasonable a proposition, that I hope no gentleman will oppose it. However, before I make my motion, I shall beg leave to observe, that in all trials at law, even in criminal trials, where by the common method of proceeding, counsel are not admitted to be heard, wherever a point of law comes to be disputed, counsel are always admitted to speak to such points for the better information of the judges; and yet, I hope I may be allowed to presume, that our judges, especially of late years, are as much masters of the laws of their country, as the several members of this House can be supposed to be of the law of nations, and of the several rights and privileges which are founded upon that law, or upon the particular treaties now subsisting between us and Spain. Therefore, when any such right or privilege comes to be disputed before us, there is at least as great a necessity for admitting counsel to be heard upon such points for our information, as there can be for admitting counsel to be heard upon any point of law for the information of our judges.

If we attend, Sir, to the petition now upon our table, we shall from thence see, that when the Convention comes to be taken into consideration, there are several matters of right that must be enquired into, and some of them may, perhaps, be disputed even by some gentlemen in this House. We know that the Spaniards have lately pretended to a right to visit and search British ships, sailing to and from the British plantations: this is a right which I believe no gentleman in this House will pretend to justify; however, as the Spaniards do pretend to justify it, or at least have exercised it, it is a point of right which ought to be fully enquired into, before we can judge of the Convention. But there is another point of right or law that will, I believe, be disputed even in this House, and that is, Whether this right of visiting and searching our ships in the open seas, which the Spaniards lay claim to, is not in some degree admitted by us, by our agreeing to refer this pretension of theirs to the future regulation of plenipotentiaries? for if there is the least ground even for the Spaniards to alledge, that we have by such reference in any degree admitted of this pretension, surely every gentleman who has a regard for the honour and happiness of his country, will condemn a treaty which gives the Spaniards any ground to say so. And whether they may not from this treaty have, or pretend to have some ground for saying so, is a point of right which the petitioners seem to apprehend, and which several gentlemen in this House, as well as I, think we have reason to apprehend, though our apprehensions will certainly be said to be groundless, by all those who are favourers of the Convention. But as this is a point which will, and must be judged of by foreigners as well as by us, we ought to have it fully argued, before we pass any judgment upon it.

As this point in particular, Sir, depends upon the law of nations, and upon the construction that is usually put upon preliminary articles or conventions, we cannot suppose that the petitioners are capable of giving us any light into this affair; and therefore, if it were but for the sake of this point only, we ought to allow them to be heard by their counsel upon this occasion. There may be other points of right, which ought to be enquired into: I believe there are several others which we ought to insist on, as the undoubted rights and privileges of this nation; and yet the general reference contained in this Convention, may hereafter give Spain a pretence to say, that even we ourselves admitted them to be such as were disputable. For this reason, Sir, before we pass any judgment in an affair of so great consequence to the honour, trade and navigation of this kingdom, we ought strictly to examine into the import and meaning of those words in the first article, by which it is agreed, "That the plenipotentiaries re-

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spectively named by their Britannic and Catholic Majesties shall confer, and finally regulate the respective pretensions of the two crowns, as well with relation to the trade and navigation in America and Europe, and to the limits of Florida and of Carolina, as concerning other points which remain likewise to be adjusted." I say, Sir, we ought strictly to examine into the import and meaning of this unlimited reference, before we pass any judgment; and as the import and meaning of these words must entirely depend upon the law of nations, and the nature of preliminary conventions, we cannot expect full satisfaction as to this point from the petitioners; we can no way expect full satisfaction, but by hearing learned gentlemen argue upon it, who have made such points their particular study.

I believe, Sir, it will be admitted by every gentleman, both within doors and without, that a definitive treaty, containing a full and express acknowledgment of all our rights and privileges, would have been much better than this preliminary Convention: considering the vigorous resolutions of both Houses of Parliament last session, considering the spirit which at present prevails among all ranks and degrees of men in this kingdom, and considering the great expence the nation was put to last summer, I believe it was what most men expected: yet notwithstanding, if none of our undoubted rights or privileges are rendered doubtful, or any way invalidated by this preparatory way of treating, we may excuse our negociators for agreeing to such preliminaries for the sake of peace, provided it appears they had good reason to hope that those preliminaries would be soon followed by a sincere and satisfactory treaty; but, I hope, Sir, this nation is not yet brought so low, nor are we so fond of peace, as to give up any of our rights, or agree to any thing for present ease, that may lay a foundation for contesting some of our most valuable rights in time to come. Such an unlucky situation, I hope, I am convinced, the nation is not yet reduced to, whatever some gentlemen may be, who perhaps consider their own immediate ease, more than they consider either the honour or the interest of their country.

But suppose, Sir, there were no matters of law or right to be explained to us, suppose it were no way necessary to have the law of nations, or the nature of preliminary Conventions explained to us, yet the facts that are to be laid before us upon the present occasion, are so numerous, and of such various kinds, that it is not possible to have them methodically and regularly summed up without the assistance of counsel. We must see that it will be necessary for us to examine a great many witnesses with regard to those depredations that have been committed by the Spaniards both before and since the treaty of Seville; with regard to the importance of our trade to and from our plantations in America; with regard to the dangers that trade may be exposed to, if a search of British ships sailing to and from the British plantations should be tolerated upon any pretext, or under any restrictions; and with regard to several other points I could mention: every one of these witnesses may be able to give us an account of some of the facts he knows: but from daily experience we may suppose, that even those accounts will be but lamely and indistinctly given, unless we have counsel at our bar, who know how to put the proper questions to them; and when all the witnesses have been examined, we cannot suppose that any of the petitioners will be able to sum up the evidence, to digest all their testimonies under their proper heads, and to make such remarks upon each point of evidence, as may be necessary for putting it in the clearest and strongest light; for when a subject is very copious, and a great many facts of divers kinds to be related, it is not possible for any gentleman not exercised in the art of speaking, or not accustomed to speak before a numerous assembly, let his qualifications otherwise be never so great, to give a regular, distinct, and full account of the whole.

From what I have said, Sir, I think it must appear, that it will be extremely proper for us to have the assistance of counsel upon this important occasion. Nay, it is what I think those gentlemen must be fond of, who are the greatest friends to the Convention; for if it any way deserves those high encomiums that have been made upon it, by some gentlemen without doors, the more clearly, the more distinctly, and the more fully this whole affair is laid before the House, the more we shall be sensible of the great honour and advantage the nation may reap by this preliminary treaty; the more easy will it be for them to answer any objection that may be made against it: for this reason I cannot suppose, that the motion I am to make will meet with

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any opposition; and therefore I shall add no more, but conclude with moving, "That the Petitioners may be heard by themselves or counsel, as I have before mentioned."

Mr. *Pelham:*

Though I am as fond as any gentleman in this House can be, of receiving all possible information relating to the Convention we have lately concluded with Spain; though I shall be glad to have that information laid before us in the most full and methodical manner, yet I cannot altogether approve of what the hon. gentleman has been pleased to propose. And, indeed, it is because I am for having all proper information relating to that affair, and for having that information laid before us in the most natural, clear, and succinct manner, that I shall be against agreeing to some part of his proposition. I shall willingly concur with him in ordering the Petition now presented to us, to be referred to the Committee who are to consider of the Convention: I shall likewise concur with him in allowing the petitioners to be heard by themselves before that committee; but I cannot concur with him in giving them leave to be heard by themselves or counsel: because in the case now before us I do not think it proper to admit either those who have already petitioned, or any of those who may hereafter petition, to be heard by counsel; and, my reasons for being of this opinion, I must beg leave to lay before you.

I have a great respect, Sir, for the learned gentlemen of the law, and shall always be glad to hear them hold forth at our bar upon every proper occasion; but I hope they will excuse me if I say, that I do not think their manner of stating the case, or relating facts, the most natural: I hope they will pardon me, even if I should say, that it may sometimes serve to confound, instead of instructing their hearers. Nay, as it is the custom among them to be ready to take a fee upon either side of any question, that may occur either in this House or any other court of judicature, they must make it their business to learn how to dress up a bad cause in such fine trappings, as to make it pass for a good one. Therefore, in cases where no matter of private right or property is to be disputed, I shall always be against exposing myself, or any other gentleman in this House, to the danger of being confounded or imposed on by flowers of oratory, or by an artful manner of stating the case, either on the one side or the other; because, I can say, for my own part at least, that I am afraid, lest I should by such means be persuaded to think that a good cause which is really a bad one, or that a bad cause which is really a good one! and my fears in this respect always encrease in proportion to the importance of the case, in which I am to give my judgment.

After having thus shewn, Sir, the danger of admitting counsel to be heard before us, in any case where it is not absolutely necessary, I must observe, that with regard to facts, we can in no case suppose that counsel can give us any information, but such as they are instructed to give by those that employ them. In the present case it is the Petitioners that must instruct them what facts they are to insist on, what witnesses they are to call for proving those facts, and what may be the proper questions to be put to each witness; and, if we suppose the Petitioners capable of instructing their counsel in all these particulars, we must suppose them capable, by themselves, of instructing this House, and of giving us all the information as to facts that we could expect from their counsel. I say, we must not only suppose them capable of doing it, but I am convinced they will do it in a more natural and succinct manner, than the learned barristers equally do. Facts, Sir, are plain things, they may be disguised, but they cannot be cleared up by eloquence; therefore, in all cases where nothing but facts are to be enquired into, the more numerous the assembly is that is to judge them, the more danger there is in allowing them to be stated or summed up by those whose profession it is to be eloquent; and for this reason I think we ought, in the present case, to have all those facts that may be necessary to be laid before us, stated in the most plain and natural dress, which we may expect from the Petitioners themselves, but cannot from their counsel.

Then, Sir, as to points of right or law, I do not think it possible that any such can arise with regard to the Convention. As to those the hon. gentleman has been pleased to mention, I do not think that any one of them will be disputed in this House. Surely no gentleman in this House will say, that the Spaniards have a right to search any British ship upon the high seas: nor do I believe that any gentleman in this House will deny the import-

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ance of our plantation trade, or that it will be exposed to great dangers and inconveniences, in case the Spaniards should be allowed to search our ships sailing on the high seas, upon any pretext, or under any restrictions. And as to the point, whether we can be supposed to have admitted in any degree of such a search, by referring all matters in dispute between the two nations to be regulated by plenipotentiaries? It is a point in which I think there can be no question: I am sure no gentleman in this House will say, that from such a reference any such thing can be supposed. If a man should claim 1,000*l.* of me, may not I submit to hear his reasons, and examine his vouchers, though I know I owe him nothing? Does this submission shew any acknowledgment in me, that that sum, or any other sum, is really due? So far otherwise, Sir, that I should think myself bound in charity to confer with him upon the subject, to the end that I might have an opportunity to convince him of the unreasonableness of his demand, or falsehood of his vouchers, and thereby prevent his being induced to ruin himself by commencing an unjust law-suit against me. This, I say, I should think myself bound in charity to do, especially if that neighbour and I were in such circumstances as made it our mutual interest to cultivate a mutual friendship: and that this is the case between Spain and us, I believe no gentleman will deny. This, Sir, is all we have done with regard to the present disputes between Spain and us: we have agreed to hear what they have to say, for no other end but to convince them that there is not the least foundation for the claims they have lately set up; and this we have done out of charity to them, as well as out of regard to our own interest, in order to prevent an open rupture between two nations, whose mutual interest it is to live in mutual friendship. By the reference we have agreed to, we cannot be supposed to have given up, or in the least invalidated any of our rights or privileges. We cannot be supposed to have admitted, in any degree, of any of their claims: at least no such supposition can be made by any but those who have a mind to suppose so, only for the sake of finding fault with the Convention.

This nation, thank God! Sir, is far from being in any unfortunate situation, I hope it will never be reduced to the fatal necessity of giving up any of its valuable rights or privileges for the sake of peace. I hope no man has any influence in his Majesty's counsels, that for any selfish consideration would advise him to do so. I am sure his Majesty would reject such advice with the utmost disdain; and therefore no man, if he were wicked enough, will be so bold as to give it. But there are some persons in the nation, though none in this House, who are enemies to his Majesty and his family; and as such persons place all their hopes in insurrections and invasions, they endeavour to make the world believe, that this nation is reduced to the lowest and most contemptible condition, by which they hope to serve a double purpose; for at the same time that it contributes towards rendering our own people disaffected, they think it will encourage foreigners to invade us, or provoke us to war, by refusing to do us justice. This may have some effect upon some ignorant and unthinking people, but no man of sense can be so imposed on; and it is now, I hope it will always be, in our power, as soon as we think it necessary, to make our enemies sensible, that our forbearance proceeded from our wisdom, and not from our weakness or pusillanimity.

From what I have said, Sir, it will appear, that none of those points of right that have been mentioned, can come to be disputed in this House; and surely we have no occasion to hear counsel, as to points of right which no man will contest. But now suppose they were all to be contested, even in that case, we could have no occasion to take up our time with hearing counsel. All the points that have been mentioned, and all the points of right that can come before us upon the present occasion, are of a public nature; and, with respect to matters of public right, there are many gentlemen in this House, that understand them better, and can explain them more fully and clearly, than any lawyer, whose time is chiefly employed in studying the municipal laws of his country. I believe there is not a gentleman in this House but would chuse, I am sure I would chuse, to hear the hon. gentleman himself upon such a subject, rather than any lawyer in the kingdom. It is in matters of private right of property only, where the hearing of counsel can be of any advantage to us; because, as such matters are generally more perplexed than matters of a public concern, gentlemen who do not make it their particular study, cannot be supposed to know all the laws and customs

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that may relate to them, or the precedents by which they ought to be regulated.

In such cases, Sir, in all cases, where the private right or property of any man in the kingdom is to be affected by any thing that is to pass in this House, I know it is usual to admit their Petitioners to be heard by the counsel; but I know no instance where counsel have been admitted, in any case, where national right or privileges only could be said to be affected. I am far from thinking that any national right or privilege can be in the least affected, by our late Convention with Spain; but, if this were the case, I think it would be a bad precedent to admit counsel to be heard upon such an occasion. I know the subject has a right to a Petition, even upon such occasions: I shall always be not only for preserving that right, but for encouraging the practice. But, in all cases, we have a right to hear them or not, as we see cause; and in matters of a public concern, we seldom hear them even by themselves. In money bills we never do: it is almost a general rule, not so much as to receive petitions against such bills; and it would be extremely inconvenient to introduce the practice of hearing counsel in cases of a public nature. If such a practice should become frequent, our session of parliament would become not only annual, but continual. We should be obliged to sit from one year's end to the other; in which case, it would be necessary to revive the ancient custom of paying wages to our parliament men; and, as money is now of much less value than it was when that custom prevailed, it would likewise become necessary to increase those wages, which would be a new and a heavy charge upon all the counties, cities, and boroughs in the kingdom.

Whoever, therefore, may be the parties, plaintiff and defendant, when we come to take this Convention into our consideration, it must, I think, Sir, appear to be a precedent of a very dangerous nature, to admit the petitioners against it to be heard by their counsel. For my own part, I am far from thinking, that the whole body of our merchants, planters and seamen, will appear as plaintiffs against it. What means may have been used for spiriting up petitions against it, I shall not pretend to determine; but, I believe, if any means had been made use of for spiriting up in its petitioners favour, we should have had as many petitions of the one side as the other; for I cannot but think, that the greatest part of our merchants, planters, and seamen, will always be for preserving peace, if possible. And as to those who were concerned in negociating this treaty, I believe they think it stands in no need of counsel for its justification: I believe they think it will sufficiently speak for itself; and therefore will not desire to have it recommended by the arts of eloquence; and, as I think the admitting of counsel to be heard against it, is not only unnecessary, but in several respects dangerous; as I think it would be taking up a great deal of our time to little purpose, I shall therefore conclude with moving for an Amendment to the hon. gentleman's motion; which is, "That the word, 'either,' and the words 'or counsel,' may be left out of the question."

Sir *William Windham:*

Sir; I am glad to find that the hon. gentleman who spoke last, is for shewing some sort of regard to the Petition now before us. I confess I had some apprehensions, that this Petition would have been treated as the petition of the city of London against the late infamous Excise Scheme was treated;* that you would only have ordered it to lie upon the table; because, I am convinced the Petitioners, if they are allowed to be heard, either by themselves or counsel, will be able to make out all they have alleged, and more than they have alleged in their Petition.

But, for my own part, Sir, I must say, with respect to this scheme of peace, this Convention now before us, I do not think I stand in need of any information the petitioners can give, for assisting me to form a right opinion of it. Upon the very face of it, and at first view, it appears to me to be not only the most disadvantageous, but the most dishonourable treaty we ever made. Nothing I think can in the least excuse our agreeing to it, but our being in the most unfortunate, the most contemptible situation, an independent nation was ever in; and this, I am sure the petitioners cannot shew. If we are in such a situation, which God forbid, it is those only who made this treaty that can shew it; but if they should tell us that this was their reason for advising his Majesty to ratify such a treaty, it is far from being an argument for our approving it. Unlucky circumstances, either at home or abroad, may be a reason for suspending our resentment, but it can

* See vol. 9, p. 1.

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never be a sufficient reason for our agreeing to a dishonourable treaty; and, if we are in such circumstances, it is the duty of this House to enquire into the conduct of those who have brought us into such circumstances, and to punish them for their wickedness or folly; for this nation can never be brought into such circumstances but by the extreme wickedness or folly of those who have been intrusted with the administration of our public affairs.

This, I say, Sir, is the opinion I have already formed: it cannot be made worse by any thing the Petitioners or their counsel can say against, and I do not believe it will be made better by any thing that can be said in favour of this Convention. But as some gentlemen may not yet look upon this new treaty, or rather preliminary to a treaty, in the same light I do, and as I think it necessary we should be as unanimous as possible in an affair of so great importance, I shall be for giving as much fair play as possible both to our merchants, and to those whom I must upon this occasion look on as their antagonists, I mean our negociators, and others who were concerned in cooking-up this whetting morsel, which they seem to have contrived on purpose to make us digest any treaty Spain, in all her haughtiness, shall please to vouchsafe. I say, Sir, I shall be for giving both these parties as much fair play as they can desire, and therefore I shall be for allowing the Petitioners to be heard by themselves or counsel. When we have given them this liberty, they may then choose which they think best; and as they know their own abilities, and the several matters they have to lay before us, much better than we can pretend to, they are certainly better judges than this House can be, whether it will be necessary for them to have counsel; for unless they think it absolutely necessary for them to employ counsel, we may depend on it they will save themselves the expence.

I am sorry to find, Sir, that those who are against this question, should think it necessary upon this occasion to say any thing that may look like a reflection upon the learned gentlemen at the bar. As they are not to set themselves up as judges in any case they are employed in, it is their business, it is their duty, where no palpable fraud appears, to state their client's case in the fairest light they can; and if, upon one side of the question, the case be designedly put in a confused, or in a false deceitful light, or if any sophistical arguments be made use of, it is the business of those who are employed on the other side, to state the case in a clear light, to expose the falshood or deceit, and to shew the sophistry of the arguments made use of by their antagonists. This renders it almost impossible for the judges, or indeed for any hearer, to be deceived or imposed on by the art of the speaker, upon either side of the question; and therefore the admitting counsel to be heard in any case, either of a public or private nature, can never be of the least dangerous consequence, but on the contrary, must always be of great use for giving the judges a clear and distinct notion of the case in which they are to give judgment, and of the arguments that may be made use of upon both sides of the question.

As the gentlemen at the bar are never, in any case which they plead, to give their judgment or their vote, they may therefore lawfully, honestly and honourably take a fee for pleading any cause they undertake; but where a man is to give his judgment or his vote, I am sure every gentleman in this House will agree with me, that it is neither honourable, honest, nor lawful to take a fee, or any other reward, either for speaking or voting. He ought not so much as to accept of a favour, or a present from either of the parties concerned in the case, in which he is to give his vote or judgment. Nay, in such cases, if a man has any particular attachment to one side more than the other, he ought not to look upon himself as an impartial judge in that affair; for which reason he ought to avoid giving his opinion. In all cases, therefore, where there are two parties concerned, gentlemen ought to examine themselves strictly, before they venture to give their judgment or their vote upon either side of the question; for though the heart cannot perhaps be corrupted, the judgment may be misled, by favours received, or by personal attachments.

As to facts, Sir, I shall allow they are plain things, more plain perhaps than some people desire. They are so plain, that I do not find they can be disguised by all the mercenary eloquence in the kingdom. But, as plain as they are, it requires some art, some practice to state them in their proper light, especially where they are numerous and of various kinds. But with regard to facts, we know that true eloquence consists in relating what are necessary, and no more than what are necessary; therefore, for saving time, we

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ought to admit the petitioners to be heard rather by their counsel than by themselves; for as none of them are practised in the art of speaking, they may forget, or omit to give us an account of some of the most material facts, and dwell upon others that are nothing to the purpose; so that a great deal of our time may be taken up in hearing a prolix account of facts that are of no great signification, and yet at the end we may have but a very lame account of those facts which are the most material. Counsel, it is true, must have instructions from those who employ them: they must have an account from their clients of the facts that may be proved, and of the witnesses that can prove them; but in the course of the examination some material facts may be hinted at, which the petitioners did not know of before. If counsel were present at the bar, they would immediately lay hold of such hints, and by putting proper questions might have them fully explained: whereas, otherwise, such hints may probably pass unobserved, and by that means some of the most material facts may remain in obscurity. From whence we may see, that it is not always from the client that the counsel are to learn what may be the proper questions to be put to each witness. The client may in general say, that such a witness is to be examined as to such a point; but it is the counsel that must think of the proper questions to be put to him, in order to make him give an account of all he knows relating to that point; and those questions cannot so much as be thought of, but in the course of the examination; which no man can be supposed so capable of, as those who are daily conversant in such affairs. Thus, Sir, it appears that with regard to facts, if we admit the petitioners to be heard by themselves only, we may probably have a great deal more of our time taken up, than if we were to admit them to be heard by their counsel, and that we cannot expect so full and distinct an account of all the material facts, as we ought to have in an affair of so great importance. As we shall probably have a great many petitions besides this now before us; as every one of those petitions may complain of some particular point that affects them only; the examination of witnesses must last for several days, and must relate to points of a very different nature. In such a case, can we suppose that any gentleman, who has never made it his business, will be able to sum up the evidence? let every gentleman of this House apply the case to himself: let him lay his hand upon his heart and declare, whether he thinks he should be able to sum up the evidence, notwithstanding his being acquainted with, and perhaps accustomed to speak in this assembly. What, then, can he expect from any gentleman who never was of this House, nor ever perhaps spoke before any public assembly?

Now, Sir, as to matters of right or property, the hon. gentleman endeavoured first to shew, that no such matter could come to be disputed before us. Sir, I believe the rights of this nation, that have been lately disputed by Spain, will not be in the least controverted before us. No man will dare to stand up in this assembly, and deny any of those rights, that Spain has been lately allowed to dispute with us. It was inconsistent with the honour of the nation to allow them to be disputed in any negociation. That of a free navigation upon the open seas, is a right so plain and evident, and of such consequence, that we ought to have broke off all manner of negociation, as soon as the Spaniards pretended to deny it; and since they had pretended to set up a claim that was inconsistent with this right, we ought never to have renewed our negociations with them, till they had previously relinquished that unjust claim, and expressly acknowledged our right. Whereas it now appears, that we have not only negociated, but have treated without any such relinquishment or acknowledgment: nay, we have expressly, by this treaty, referred it, amongst others, to be regulated.

What the meaning of this reference may be, Sir; what interpretation may be put upon it, is a matter of right that must be enquired into, before we approve of this treaty. It is not what meaning may be put upon it by this House, or by any gentleman in this House, that we are to enquire into. It is what meaning may be put upon it by Spain, or by foreigners; for if the court of Spain, or any foreign court whatever, can suppose, that by this reference we have in any degree admitted of those claims the Spaniards have lately set up against us, it will with them bring this nation into contempt; and surely the parliament of Great Britain is not to approve of a treaty that will bring Great Britain into contempt, at any court in Europe. It is not, Sir, because I have a mind to find fault with this treaty, that I suppose this reference will be interpreted as an ad-

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mission of the most dangerous claim Spain has set up against us: it is because I think such a reference cannot be otherwise interpreted, that I must find fault with this treaty. Spain pretends to a right to search our ships upon the open seas, and to confiscate the ship and cargo, if one shilling's worth of any goods be found on board, which they may please to call the produce or manufacture of their plantations. This right, among the rest, we have referred to be regulated. Is not this acknowledging the right? is it possible to regulate a right that never was in being? let us put the case the other way. We pretend, and most justly pretend, to free navigation on the open seas. Formerly we pretended to a dominion over the seas; but now we are reduced to pretend only to what every independent state has a right to by the law of nations; and even this right we have, by this treaty, referred to be regulated by Spanish plenipotentiaries. Is not this the greatest indignity that ever an independent nation submitted to? Shall we allow Spain to prescribe rules to the freedom of our navigation in the open seas? If we should now say, we cannot admit of any such thing, Spain may justly reply, you have already admitted it by your preliminary articles; the only thing the plenipotentiaries have to do, is, to settle and agree upon those rules which we are to prescribe.

If any man should claim of me, Sir, 1,000*l.* which I knew he had not the least pretence for, I should, perhaps, out of charity, vouchsafe to hear what he could say in justification of his claim, but I should think myself a madman, if, to avoid a law-suit, I should submit such a claim to arbitration. We have heard the reasons alledged by Spain, for every one of the unjust claims they have lately set up against us. We have had the patience to hear them over and over again, during the long course of our negociations. We ought, I am sure we could, and I hope we have shewn them, that there is no weight in any of the reasons they have alledged, nor the least foundation for any one of the claims they have set up. This we might have done for once, without doing ourselves any notable injury; but we negociated too long, and now at last, by this treaty, we have submitted all the unjust claims they have set up against us to arbitration. They must have been convinced long before now, that they had no reasonable pretence for refusing to do us justice; but, if they were not, can we hope that they will be more tractable, or less obstinate, in conferring, than we have already found them, in negociating? Can we expect that the arguments of Mr. Keene the plenipotentiary will have greater weight than the same arguments had when urged by Mr. Keene the envoy? No, Sir, they will not now admit him to say, 'You have no right to search our ships upon the open seas, under any pretence whatsoever:' They will tell him, 'You have already, by the preliminary Convention, admitted our right; your only business now is, to propose to our plenipotentiaries such regulations as may make our right of searching as little hurtful to your trade as possible.' This is what I am convinced the Spaniards will say; and whether or no they may have a right from the words of this treaty to say so, is a question of right, which we ought to hear argued by counsel, before we pass judgment upon this Convention. If there be the least pretence for their saying so, they have already got a great advantage over us, by his Majesty's ratification; but they will get a much greater, by the Parliament's approbation of that treaty, which furnished them with such a pretence.

I am glad to hear, Sir, from the hon. gentleman, that the nation is far from being in any unfortunate situation; because he ought to know, and I am convinced he never speaks contrary to what he thinks; but whatever we may think or say within doors, I am afraid a very different opinion generally prevails without doors. The people do not judge from what they hear, but from what they see and feel. They have felt themselves insulted, plundered, and cruelly used, by the Spaniards: they have as yet found no reparation, nor do they know of any vengeance that has been taken. On the contrary, it is well known both abroad and at home, that we have tamely submitted to repeated insults and depredations for many years. We have submitted so long, that the Spaniards seem to think they have acquired a right by prescription to plunder our merchants, and abuse our seamen as often as they have a mind. From our suffering such injuries and indignities to pass unpunished, not only our own people, but every foreigner that hears of it, may have some reason to conclude, that the nation is in a weak and contemptible condition, or that some of those that have an influence in our counsels, are swayed by motives inconsistent with the honour and

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interest of their country. It is not from the reports of his Majesty's enemies, but from the conduct of his Majesty's ministers, that people form their judgment; and therefore, if there be any one, either at home or abroad, that supposes this nation to be in an unfortunate situation, it must be imputed to his Majesty's ministers, who, in this respect, might indeed be justly called his Majesty's greatest and most dangerous enemies.

In the case now before us, Sir, we ought to consider rather what the people without doors may think, or what foreign nations may think, than what any particular gentleman of this House may think of our present situation. From our past conduct, I am afraid, foreign nations have already begun to form a very unfavourable opinion of our circumstances; but, if they should see a treaty approved of by Parliament, containing any words that can be interpreted as an admission of a right, which no independent nation ever submitted to, they must form a most contemptible opinion of us, and certainly will treat us accordingly. Therefore, I think it is absolutely necessary for us to hear counsel, upon what may be thought to be the import of that general reference, which seems to be the chief article of this treaty.

I do not question, Sir, but that there are several gentlemen in this House, who are pretty well acquainted with the law of nations, and the nature of treaties; I have one in my eye, who must be allowed to be a great master in this way; for though he never made it his profession, he is well known to have had great practice; and, I make no doubt of our having his assistance, when this treaty comes to be explained. But no gentleman, who never made this study his profession, can be supposed to be so well acquainted with it, as those that do. In one of our courts of justice, I mean our court of Admiralty, we know that the barristers or advocates are obliged to make this study their particular profession; and as our other barristers may happen to be employed in appeals from that court, most of them are obliged to make themselves thorough masters of the law of nature and nations, especially with regard to maritime affairs. Therefore, when an important question of any such nature is like to come before us, it must always be of great use to hear counsel, before we give our opinion upon the question.

In any such case, Sir, our admitting counsel to be heard can never be a dangerous precedent. If it were established as a general rule, it could be attended with no bad consequence; because such cases rarely occur. But, if they were much more frequent, it would be no argument against doing our duty, which is, in all cases, to endeavour to be thoroughly informed before we give our opinion. If this should prolong our session of parliament, and if the length of our session should make it necessary to revive the antient custom of paying wages to our parliament men, I cannot think that either would be a loss to the nation, or an innovation of our constitution. The last would certainly be an advantage, because it would make our little boroughs do as many of them have formerly done: it would make them petition to be freed from the burden of sending burgesses to Parliament; and if no little borough in the kingdom sent a member to this House, it would, in my opinion, be an advantage to the nation, and an improvement of our constitution; because the people would be much more equally represented.

But now, Sir, suppose it were allowed to be an established rule in our proceedings, never to admit counsel to be heard in any case, where no private right or property is concerned; yet this could be no argument against our admitting counsel to be heard with regard to this Convention; because it must be granted, that the private property of great numbers of his Majesty's subjects is deeply concerned. The claims of our merchants, the property they have been robbed of, amounts to above 400,000*l*. The very Petitioners now before us have a great share in this property; and shall we say their private property is no way concerned, when that whole claim is to be given up for 95,000*l*.? Can a man's private property be said to be no way concerned, when he finds himself in danger of being obliged, by authority of Parliament, to accept of less than 5*s*. in the pound, from a debtor who does not so much as pretend to be bankrupt or insolvent?

The people of Georgia and Carolina, Sir, have a property in the lands they possess, founded upon what ought to be held one of the most sacred rights in the world, the king's grant and their own industry; and can their property be said to be no way concerned, when limits are to be settled, by which some of them must, and, for what they or we know, all of them may be stript of their possessions? I say,

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Sir, some of them must, and all of them may; for if we happen to be infected with the same complaisant humour when we conclude the definitive treaty, with which we seem to have been infected when we concluded the preliminary articles, I do not know but the whole, or a great part of South Carolina may be made a present for keeping the Spaniards in good humour. At least, some of the southern parts of Georgia must be given up; for it would have been ridiculous in us to refer the limits between the Spaniards and us in Florida to be settled by plenipotentiaries, if at the same time we had been resolved not to part with an inch of what we then pretended to.

The South Sea Company, Sir, have a right and property in the Assiento contract: a property that would have been a great value to them, as well as to the nation, it we had taken care to resent in a proper manner every invasion that was made upon it. Can it then be said, that the private property of the South Sea Company is no way concerned in a treaty, when by the fundamental article of that treaty, I mean the king of Spain's Declaration, agreed upon with reciprocal accord, we have, in some measure, acknowledged his right to suspend the Assiento contract, unless that Company subjects herself to pay, within a short term, a large sum of money, which he has no good right to demand, and which, though he had, he ought to allow in part of payment of a much greater sum due by him to them?

Sir, the private property of the South Sea Company must be so deeply concerned in any question that can come before us relating to this Convention, and has, in my opinion, been so greatly injured by our receiving or agreeing to this Declaration, that I am surprised they were not the first to petition against the Convention. I know of no means that have been made use of, either public or private, for spiriting up petitions against it, except that of its being printed and published; I believe there was no occasion for making use of any other means. But, if the South Sea Company do not petition against it, I shall be convinced that some under-hand means have been made use of for preventing such petitions; and from thence, I shall be apt to suspect that, if it had been possible to procure any one petition in its favour, no proper means would have been wanting.

Sir, I think I have made it appear, that the private property of a great many of his Majesty's subjects, must be concerned in any question that can come before us relating to this Convention: I think it is evident, that the private property of those whose petition we have now before us, must be deeply concerned: and therefore, if counsel are ever to be heard in any case where private property is concerned, they ought to be heard when we come to take this Convention into our consideration. For which reason I shall be for agreeing to the motion without any Amendment.

Mr. *John Talbot:*

Sir; though I am far from thinking it dangerous to hear counsel upon any case whatever, yet I cannot think it is always necessary; and in parliamentary affairs, when it is not absolutely necessary, I must think it ought not to be allowed; because, by so doing, we take up a great deal of our time, and lay those who have business before us under a temptation, at least, of putting themselves to expence to no purpose. This, Sir, is far from being a new opinion, or a new way of thinking; for however necessary some may think it to hear counsel in every case that comes before parliament, or before our courts of justice, it was not thought so of old: so far otherwise, that by the common law of England, neither the plaintiff nor defendant, in any of our courts of justice, could appear by his attorney, without the King's special licence signified to the court, by his writ or letter: every man of old was obliged both to prosecute and defend his suit in his own person; and upon this custom, the learned Coke observes, that it made law-suits less frequent, which, I believe, was no loss to the kingdom in general, whatever inconvenience it might be to particular persons.

I may say upon the present occasion, that it would be very unadvisable to introduce the custom of permitting every man to be heard by his counsel, who might think himself aggrieved by any regulation proposed in parliament for the public good. In some cases of an extraordinary nature this perhaps has been allowed; but it cannot yet be said to be an established custom; and I hope it never will. In cases where the rights and properties of private men appear to be concerned, it may sometimes be necessary to hear counsel; but even in such cases, we ought to distinguish between those in which some nice point of law may probably arise, and

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those in which no such point of law can come to be canvassed before us. In cases of private right or property, where some nice point of law may probably arise, it becomes necessary for us to have that point argued by counsel learned in the laws of the kingdom; and for that reason we ought, in such cases, to admit the parties or petitioners to be heard by themselves or counsel: but in cases where no such point can be expected to arise, notwithstanding there being such as may affect the property of some private men, it is no way necessary; nor ought we to take up our time with hearing counsel as to facts, or clear points of law, which every gentleman in the House may comprehend as readily and as fully, as the most learned lawyer that can be brought to plead before us.

This, I believe, Sir, will be allowed to be the case, with regard to the Convention. The rights of some private men may perhaps be affected by some of the Resolutions we may come to upon that occasion; but no one, I think, can expect, that any difficult point of law, relating to that right or property, can come to be disputed. And if in the course of our examination some point of law should arise, which may be thought proper to be explained by counsel, we may then order, that the petitioners shall then be heard by themselves or counsel, as to that point only.

In this way, Sir, we may save ourselves a great deal of time and trouble, and may prevent the petitioners putting themselves to a needless expence; and if this method were established as a general rule in all our proceedings, even in cases where the right or property of private men may be affected, no man could say it would be any way inconsistent with our constitution; for in criminal cases of the highest nature, in cases of felony, the prisoner is not admitted to be heard by counsel, unless upon the trial some point of law arises, and then he is to be heard by counsel as to that point only; and even in cases of high treason our constitution was the same, till it was altered by a late statute; for where the law is plain, there is certainly no occasion for counsel in any case either before parliament or any inferior court of judicature; and as to facts, they ought to be related and explained so as to make the truth appear by the depositions of honest and sincere witnesses, and not by the glosses that may be put upon them by ingenious and artful pleaders.

Therefore, Sir, by the ancient forms of our constitution, which I think, for the sake of dispatch, ought to be observed as a rule in our proceedings, we have no present occasion to order the Petitioners to be heard by their counsel. Nay, they themselves seem to be conscious that it ought not to be done; for they have not so much as petitioned to be heard by themselves or counsel, they have petitioned only in general to be heard. If any question should arise relating to matters of public right, or the meaning of words in this or any other treaty, we have the good fortune to have several gentlemen amongst us, that can speak to it as fully, and as learnedly, as any counsel the Petitioners can employ; and as an addition to our good fortune in this respect, I believe those gentlemen will not be all of one side: I even hope they will be of different opinions, in order that we may hear the point as fully argued in that case, as we usually do in other cases of the same nature. Then as to managing or summing up the evidence, we have the same good fortune. We have gentlemen amongst us, that are as capable of putting proper questions to the witnesses during the examination, and summing up the evidence after the examination is finished, as any lawyer that ever appeared at our bar; and as some of those gentlemen may probably be of the same opinion with the Petitioners, and some of a contrary opinion, we may expect to have the examination well managed, and the evidence fully summed up on both sides.

I am surprised, Sir, any gentleman can imagine, that less of our time will be taken up in hearing the Petitioners both by themselves and their counsel, than in hearing them by themselves only: for the case is really that if you order them to be heard by themselves or counsel, they will chuse to have counsel, not because it is necessary, but because after the counsel have opened the subject matter of their complaint, such of them as can say any thing upon the subject, will be called as witnesses, and may in that shape say as much, and take up as much of your time, as if they were to be heard by themselves only. By this means they will have the advantage of having their case twice laid before you, and in a two-fold manner, first by their counsel, and then by themselves; and therefore, I think, it is certain, they will chuse to be heard by their counsel, in case you give them leave.

But there is another reason, Sir, why I

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think they will chuse to be heard by their counsel, which, in my opinion, ought to be a strong reason with us not to hear them by counsel. It is certain we have not obtained so much by this Convention as some sanguine people might expect: it is certain we never did obtain so much by any treaty we have made, nor ever shall by any treaty we can make. Wise men will always give up something of what they may have reason to expect, rather than risk the whole upon the doubtful event of a war; and what they do give up, will always be in proportion to the chance that is against them. To set this chance in its proper light, the power of your enemies and your own weakness must be truly represented, without magnifying either the one or the other; but as it is, and always will be, unpopular to talk of the strength of your enemies, or of your own weakness, therefore the popular side of the question will be always against any treaty or convention you can make; and as there is always the greatest scope for eloquence upon the popular side of any question, the Petitioners will certainly chuse to have as much eloquence upon their side as possible, and for that purpose will chuse to have counsel, if we give them the liberty: but with us this ought to be a reason for not admitting them to be heard by their counsel; because we are to consider, not what is most popular, but what appears from the present circumstances of things to be most for the public good. As this is certainly the duty of every member of this House, I do not believe that any gentleman, who has the honour of being a member, will allow himself to be influenced by the eloquence either of the Petitioners or their counsel; and therefore, if there were none here present but members, I believe, neither side would attempt to take up our time with their eloquence; but as there is upon occasions a great number of persons present, besides those that have a right to counsel, they will consider rather what they may say to the audience, than what they ought to say to the judges; and that consequently a great part of our time will be unnecessarily taken up, in hearing florid harrangues upon the riches and strength of the nation, upon the courage of our people, and upon our warlike exploits in former ages. I hope I have now shewn, Sir, that it does not yet appear to us, that it will be any way necessary for us to hear counsel upon any thing relating to the Convention; therefore, I hope I shall be excused, if I give my vote for the Amendment proposed.

Mr. *Samuel Sandys:*

Sir; the gentlemen who have spoke upon this occasion against admitting the Petitioners to be heard by counsel, put me in mind of the old fabulous story of Proteus. When they find themselves like to be overcome in one shape, they turn themselves to another. In the former part of this debate they told us, counsel was never to be heard, but in cases where the rights or properties of private men were like to be affected by what was to come under the consideration of parliament. In answer to this, it was, I think, demonstrated, that the right and property of private men must be greatly affected by this Convention, especially if it should meet with the approbation of parliament. This they could not deny, and therefore they have now turned themselves into another shape, by saying, that counsel are not to be heard, even where the property of private men may be affected, unless some nice point of law, relating to that private property, arises during the course of the examination. This they say ought to be the rule in all our proceedings. They could not say it is, nor that it ever was, a rule. They could not say so; for every one knows, that it is contrary to the whole tenour of our proceedings, as far back as we can trace our Journals. It would be ridiculous to attempt to shew it to be so by precedents: they are so numerous that they may be said to be numberless. But what is still more extraordinary, they have endeavoured to shew, that this ought to be a rule, by mentioning some old customs, which, because of the inconveniences or injustice of them have been abrogated.

In ancient times, Sir, it was perhaps a rule, that no man should be allowed to sue or defend by his attorney, without the king's license; and this could be attended with but little inconvenience to the subject, whilst almost all causes were heard and determined in the county where the parties resided; but as soon as the king's courts began to be fixed at Westminster, it was necessary to allow every man to sue or defend by his attorney; for which reason the king's license became a writ of course, and at last, as being a needless expence to the suitors, was intirely laid aside so that for some hundreds of years

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past, parties in all civil causes have been constantly allowed, without any warrant by the king's writ or letters patent, to appear by attorney, and to have their cause pleaded by counsel; which without doubt makes law suits more frequent than they would otherwise be; for if parties were now obliged to attend a tedious law suit, and neglect all their other business, no man would either prosecute or defend his right, unless it were of a very great value.

Then, Sir, as to criminal causes, I know that those who were accused of treason or felony, were not of old allowed counsel, unless some difficult point of law happend to be started upon the trial; because, as our lawyers say, the judges are to be of counsel for the prisoner. But every man will, I believe, grant, that this was a severity, introduced in favour of the crown, nor very favourable for the subject. Our volumes of State Trials will make it appear, how seldom the judges have acted the part of being counsel for the prisoner. They often appear rather to have acted the part of being counsel against him, and have treated a man as a traitor before he was condemned either by God or his country. Thank God! with regard to treason, we have got free of being obliged to have none other but such counsel: we have got this ridiculous custom altered by means of the Revolution, which has in some measure restored our original constitution, though not so fully as it ought to have done; for a Revolution introduced and established upon the principles of liberty ought to have rooted out every stem of arbitrary power, whereas in some cases it may rather be said to have planted it, which shews the weakness of human foresight, and how necessary it is for the patrons of liberty to be always upon their guard.

With respect to felonies, it is true, Sir, the antient custom still remains; but I am surprised it has not in this case likewise been altered by statute. It is better 20 guilty escape than one innocent suffer; and I am convinced, this custom has been the occasion of many an innocent man's being condemned, who, if he had been allowed counsel, would have made his innocence as bright as the sun shine. It is impossible for an ignorant man to tell when a point of law arises; and the more innocent he is, the more ignorant we may suppose him: those that are never guilty of any crime, are seldom at the pains to study the criminal laws of the kingdom, or the methods of trial in such cases; and therefore the more unfit are they, of themselves, to conduct the examination of witnesses, or to take notice, and make the proper advantage of any point of law that may arise in the course of the examination. They must depend intirely upon their judges, and the judges may in the case of felonies behave as they have hitherto done in the case of treason: they may browbeat the prisoner, and thereby prevent his taking notice of, or insisting upon those points of law, which he may have good reason to insist on.

But, Sir, whether this custom of allowing persons accused of treason or felony to have counsel, be a laudable custom or not, it is a custom that has always been observed by parliament. Was there ever a person accused in parliament of any crime or misdemeanor, that was not allowed counsel, if he desired it? In bills of pains and penalties, are not those against whom the bill is designed, always allowed to be heard by their counsel against the bill? In impeachments in the other House, the person impeached, though for high treason, has always been allowed counsel, even when the custom prevailed of not allowing counsel to persons that were to be tried for such crimes in inferior courts. It is therefore wrong to draw arguments from what is now, or ever was the practice of inferior courts, for shewing what is or ought to be the practice of parliament; and if we follow the custom of inferior courts with regard to treasons and felonies, the petitioners ought to be allowed counsel, but our treaty-makers none.

However, Sir, as this custom was never yet introduced into parliament, if our treaty-makers, upon their treaty's being censured by parliament, which I hope it will, should be prosecuted either by a bill of pains and penalties, or by any other parliamentary method of prosecution, I should be for allowing them more favour than some of their friends seem willing to allow to the petitioners: I should be for allowing them to be heard by their counsel against any such bill or prosecution.

It is a little extraordinary to say, we must not allow the petitioners to be heard by their counsel, because they have not expressly petitioned for it. Sir, they have petitioned to be heard, but they have been so modest as to leave it intirely to us to appoint which way they shall be heard. Their modesty shews their respect for this House: and shall we make people

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suffer for shewing us a decent respect? If we should ever do so, I think we should deserve to meet with none upon any future application: and now it has been moved to order them to be heard by themselves or counsel, if we should refuse to give them the liberty of being heard by their counsel, I am afraid it will be looked on, by people without doors, as a preliminary step towards our approving of this preliminary treaty, which the whole nation disapproves of, and consequently will very much tend towards diminishing that respect, which the people of this nation have always hitherto had for their parliaments. They will despair of ever meeting with any relief from parliament, and as soon as this despair becomes general, they will begin to think of other methods for obtaining relief, which may be attended with the most dreadful consequences that may be fatal to our religion and liberties, but consequences that may, much more probably, be fatal to the royal family now upon the throne.

I shall readily grant, Sir, that wise men will give up something of what they may reasonably demand, rather than risk the whole upon the doubtful event of a war, especially when the chance of war seems to be against them. But whatever the precepts of Christianity may inculcate, I am sure the precepts of wisdom, especially in political affairs, can never direct that, if an enemy takes our cloak, we should give him our coat also; or that, if he gives us a box on one ear, we should hold up to him the other; which seems to be our case with regard to Spain. They have taken from us our cloak, and by this Convention we seem willing to give them our coat also: they have given us a most hearty blow, I may say several blows, on one ear, and by this Convention we seem to hold up to them the other. They let a captain of one of our merchant ships escape, some years since, with the loss of but one ear;* but if a British parliament approves of this Convention, every British subject, that shall hereafter have the misfortune of falling into their hands, must expect to lose both.

I shall likewise grant, Sir, that in order to determine whether the chance of war be for us or against us, the power of our enemies and our own weakness must be considered, and that, in order to judge whether we ought to have accepted of this Convention, we ought to view both in their proper and true light; but if Spain is to be assisted by none of the other powers of Europe, I am sure, neither their power nor our weakness can be urged for our giving up any thing we have a just pretence to. I am sure Spain is not now near so powerful as it was in the days of queen Elizabeth, and considering the Union of the two kingdoms of England and Scotland, and the great improvements we have made in our trade and plantations, since that queen's reign, though we have been upon the decline for some years past, I must think we are now more powerful than we were at that time; and yet that wise queen was so far from bearing tamely any injury that was offered by the Spaniards, that she always pursued them with immediate vengeance, and provoked them to battle in every corner of the world. Therefore, if Spain is not to be assisted by any of the other powers of Europe, we could be under no necessity to accept of this Convention; and if the Spaniards are to be supported by France, in the unjust claims they have set up against us, and the piracies and cruelties they have committed upon our merchants and seamen, I must say, we have shewn a great deal of complaisance to that kingdom, for almost these twenty years past, to very little purpose.

But these things, Sir, the counsel that are to be heard for the Petitioners can have nothing to do with. They are only to shew us what we have given up, or what we may be supposed to have given up, by this Treaty; and the consequences of the concessions we have made, or are like to make, with regard to the nation in general, and with regard to the rights and properties of the Petitioners in particular. It is this House only, that is to consider, whether we are in such circumstances as to render it necessary to make such concessions. The counsel have nothing to do with, nor can they be supposed to know, any thing either of the circumstances of this nation, or of the circumstances of our enemies; therefore we cannot expect to hear from them any florid harangues, either upon our own strength or courage, or upon the weakness and cowardice of our enemies; and consequently we need not be afraid of having our time taken up with hearing eloquent addresses made by them to the Galleries. But after they have finished and are withdrawn, I shall expect to hear from some gentlemen in this House as florid harangues as they are capable of

* See the Note to p. 637.

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making, upon the utility and wisdom of peaceable measures, which in a trading nation is certainly a more popular subject, and consequently a subject which affords a greater scope for eloquence, than the subject of war can afford to any orator in the kingdom. The love of peace and peaceable measures will always be a popular subject among a rich and industrious people, as long as there is nothing done for the sake of peace, that is either dishonourable or disadvantageous to the nation. But when this happens to be the case, I shall admit that war then becomes the popular subject, which I am afraid, indeed, is too much our case at present.

Sir, it seems now, as I have said, to be allowed, even by the gentlemen who have spoke upon the other side of the question, that the rights and properties of private men may be greatly affected by this Convention; but, say these gentlemen, shall we allow every man to be heard by his counsel, that may think himself aggrieved by any regulation proposed in parliament for the public good? I shall grant, Sir, that the public interest is to be preferred to the interest of any private man; but I hope it will be likewise granted, that if any particular private man, or set of private men, is to suffer a real loss by what is to be done for the public good, the public ought to make him all possible atonement; and therefore, if any set of private men think that they in particular will be aggrieved by what is proposed for the public good, and we see cause to believe that it may be so, we generally ought not only to receive their Petition, but to allow them to be heard by their counsel; and that, even although there be no likelihood that any difficult question in law, relating to their property, can arise upon our examination into the affair. For if a private man must suffer for the sake of the public, we ought to give him an opportunity of making the amount of what he is like to suffer appear as clearly as possible, in order that we may provide a remedy, or make him an adequate satisfaction.

However, Sir, as the gentlemen of the other side have allowed, that in cases where difficult points of law relating to the rights of private men may probably arise, the Petitioners ought to be allowed counsel, I think this alone is sufficient for convincing us that, in the present case, the Petitioners ought to be admitted to be heard by themselves or counsel. For, I think it is evident, that a very nice point of law must arise, when we come to take the Convention into consideration. We must then enquire into the import and meaning of those words in the Convention, by which we submit all the claims set up by Spain to be regulated by commissaries. I hope these words do not import an admission of any of their claims; but I am far from being clear as to this point; and I am sure it is a point in which the property of every one of our planters in the West Indies, especially Jamaica, is deeply concerned. I could mention several other nice points that will probably arise in the course of our examination; but this I take to be sufficient for shewing the necessity of admitting the Petitioners to be heard by counsel, even according to the maxims laid down by those that argue against it.

Now, Sir, as to our time, I must confess that an hon. gentleman has fallen upon a very ingenious method for persuading us, that more of our time will be taken up in hearing the petitioners by their counsel, than by themselves only. He has told us, that if we order them to be heard by themselves or counsel, it will in effect be, to hear them both by themselves and counsel; because, says he, we shall first hear their case stated by their counsel, and then we shall hear it stated again by them, when they come to be examined as witnesses. I wish the hon. gentleman had considered, for surely he knows, what is the business of counsel, and what is the business of witnesses upon such occasions. It is the business of counsel to state the case, before the examination of witnesses begins, and to sum up the evidence after it is over; both which they are to do in as clear and as short a manner as they can; and it is likewise their business to take care, that every witness shall give an account of all the material facts he knows, in as plain and clear terms as possible. Then it is the business of every witness to give a true and sincere account of all he knows, relating to the affair upon which he is examined, and to give plain answers to such questions as shall be put to him. This is their respective duties, and it is the business of the judge to keep them to their duty; therefore, after the petitioners case has been stated by their counsel, none of them can, and I believe, none of them will presume to state it over again, when they come to be examined as witnesses: if any one of them should, any member may rise up, and by giving him a proper check, confine him to his duty. But if we do not

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admit the petitioners to be heard by counsel, what must be the consequence? Some of themselves must supply the place of counsel. Some of them, by the appointment of the rest, must state the case at the beginning of the examination, and some of them must sum up the evidence after the examination is over; and those very petitioners, who are appointed to state the case, or sum up the evidence, may, nay, probably must, be examined as witnesses, for proving some of the facts that may not, perhaps, be known to any of the other witnesses; for otherwise you would lay the petitioners under a very great disadvantage, because the best speakers among them may be the best witnesses, and if you should refuse to hear them in a double capacity, the petitioners must be deprived of having their case stated by the best, perhaps the only spokesmen among them, or of having their best witnesses admitted to be examined. Therefore, in this way, as well as the other, they will have an opportunity, if they should think proper, and you should allow them, to lay their case twice before you, first as petitioners, and next as witnesses. But the difference between the two methods of hearing them, is, that if you hear them by themselves only, as they are not accustomed to such things, and may be more sanguine than they ought to be, most people are in their own cause, they will, probably, be more tedious, both in stating their case, and summing up their evidence, than counsel would be: and even when they are examined as witnesses, their fear of forgetting any thing material, will make them more apt to fall into repetitions and tautologies, than they would be, had they counsel at the bar to direct them, and to put them in mind of any material fact which they knew, and had forgot to give an account of. From whence we must conclude, that more of our time will be unnecessarily taken up in hearing the petitioners by themselves only, than in hearing them by their counsel.

I have as good an opinion in general of the talents and qualifications of those, who have the honour to be members of this House, as any man can have: I have a very great opinion of the abilities of some among us; but, Sir, as we are judges, we cannot be counsel in any affair that comes before this House; unless we take up that office which, the lawyers say, is the duty of those who are the judges of our inferior courts, I mean that of being counsel for those that are accused of any crime or misdemeanor. If we consider ourselves in this light, we must be of counsel against the petitioners, we must be of counsel for those who, the petitioners say, have brought their country into a most dishonourable and disadvantageous treaty; and in this light, surely, we must allow the petitioners to have counsel, as other prosecutors have; because we are all to be of counsel, rather against them than for them. But suppose it were otherwise, since no gentleman can be supposed to be so well acquainted with the laws, as those who are in daily practice; therefore, I think, it will be extremely proper, if not absolutely necessary, for us to hear counsel upon the point I have mentioned, and upon several other points of law, that may probably arise in the course of the examination; and as I think a great deal less of our time will be taken up in hearing the petitioners by their counsel, than in hearing them by themselves, I shall be for ordering them to be heard by themselves, or counsel, and consequently I must be against the Amendment proposed.

Upon a division, it was carried against hearing by Counsel, 227 against 208.*

* "So small a majority upon so disputed a point, gave vast spirits to the minority: and it was now publicly given out, that the opposition to the minister would not long continue in a state of minority. Nothing, it is true, could have saved the downfal of sir Robert Walpole at this time, but the regard his Majesty, who knew his intentions, had for the minister, and the attachment his friends, many of whom were of the most distinguished ranks in the kingdom, had to his person. Some of them knew, and all of them believed, that upon the whole he was sincerely in the true interest of his country; though many of them secretly lamented that his passion for peace had carried him so far as to put up with the indignities the sailors and merchants had suffered from the Spaniards, and which formed the foundation of the outcry against him. Sir Robert, and his brother Horatio, were amongst the very few in the nation who considered the state of parties in a proper light. They knew that the ablest members in the opposition secretly laughed at the outcry which in fact they had adopted, that they might succeed to places and to power. They were sensible that the conduct of the government, with regard to Spain, had not been irreproachable; but the end they had in view was laudable, nor, in any country, but in England, would it have been expected that some regard was not due to the prepossessions, the prejudices, and even the mistakes of a power they were treating with, and whose friendship was so essential to their real interest. But the

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DEBATE IN THE LORDS ON THE CONVENTION WITH SPAIN.*] March 1. The order of the day being read, for taking into further consideration the Convention lately concluded between Great Britain and Spain, and the Separate Articles belonging thereunto,

The Earl of *Cholmondeley* stood up, and spoke as follows:

My Lords; we are now met in order to approve or disapprove of a measure that has made a very great noise in the world, and is of the utmost consequence to the honour and interest of this nation. As your lordships have, with great patience and candour, heard the petitioners against the Convention, your lordships cannot miss now of being thoroughly informed of every possible objection to it. For my own part, my Lords, I have given all the attention that I was capable of giving in this affair: I have endeavoured, as much as possibly I could, to be quite unbiassed; and I flatter myself, the judgment I have formed of this measure, is the result of an impartial enquiry into its merits. I do not know whether I shall be so fortunate as to have your lordships of the same opinion with me; but I hope your lordships will indulge me a little, while I give my reasons for a motion that I shall take the liberty to make.

Whoever, my Lords, considers the mutual interests of Great Britain and Spain, will easily allow that these interests are best consulted by cultivating a strict peace and harmony with one another. Great Britain, whose welfare depends upon a trade, in which she has now many rivals, reaps great advantages from a free and uninterrupted commerce with Spain. And, on the other hand, the necessity that Spain is under to cultivate a good understanding with Great Britain is so evident, that it is become even proverbial amongst them. The advantages of a good understanding being thus mutual, it is to be presumed that the ministers of both crowns will be equally desirous, equally sincere in remov-

minister seldom or never urged even that argument, but rested his defence entirely upon the equity and prudence of his administration. He disclaimed a longer forbearance with Spain. and Mr. Keene, at this very time, had orders to declare to that court, that if his Catholic majesty should longer refuse to fulfil the terms of the convention, that orders for reprisals would immediately issue, which would be attended by a declaration of war: and to show that the government was in earnest, a large reinforcement of ships was sent to admiral Haddock, to enable him to act offensively." Tindal.

* "March 3, 1739. The grand debate in the House of Lords is pretty well over. Tuesday was entirely spent in hearing the merchants, and examining Mr. Stert; and Thursday in debating till eleven o'clock. Lord Cholmondeley moved the question, which was an Address of Thanks and Approbation. He spoke very well; and it is said in general that the whole debate was an extreme fine one, conducted with great dignity and decency as a national concern, and not personal or ministerial. The duke of Argyle, who spoke two hours, was the only one who, as I hear, took much freedom with the ministers. Lord Chesterfield's speech is prodigiously applauded, as very fine and very artful." Mr. Orlebar to the rev. Henry Etough:—Coxe's Memoirs of Sir R. Walpole: Correspondence, vol. 3, p. 515.

"The dispute occasioned by the Convention in the House of Lords, was maintained with equal warmth, and perhaps with more abilities than it was in the House of Commons. Lord Carteret displayed a surprising extent of political knowledge, recommended by all the graces of elocution, chaste, pure, dignified, and delicate. Lord Bathurst argued against the articles of the Convention with his usual spirit, integrity, and good sense, particularly animated by an honest indignation which the wrongs of his country had inspired. The earl of Chesterfield attacked this inglorious measure with all the weight of argument, and all the poignancy of satire. The duke of Argyle, no longer a partisan of the ministry, inveighed against it as infamous, treacherous, and destructive, with all the fire, impetuosity, and enthusiasm of declamation. It was defended with unequal arms by the duke of Newcastle, the earl of Cholmondely, lord Hervey, the lord chancellor, the bishop of Salisbury, and in particular by the earl of Hay, a nobleman of extensive capacity and uncommon erudition; remarkable for his knowledge of the civil law, and seemingly formed by nature for a politician; cool, discerning, plausible, artful, and enterprising, staunch to the minister, and invariably true to his own interest. The dispute was learned, long, and obstinate: but ended as usual in the discomfiture of those who had stigmatised the treaty. This was a hard-won victory. At the head of those who voted against the Address we find the prince of Wales. His example was followed by six dukes, two and twenty earls, four viscounts, eighteen barons, four bishops; and their party was reinforced by sixteen proxies. A spirited protest was entered and subscribed by nine and thirty peers, comprehending all the noblemen of the kingdom who were most eminent for their talents, integrity, and virtue." Smollett.

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ing all impediments to so desirable an end. At the same time, my Lords, the great intercourse betwixt the subjects of the two nations, the neighbourhood of their possessions, and, give me leave to add, the different genius of the two people, render these impediments pretty frequent; and they are of such a nature, as not to be surmounted but by each party wisely yielding a little to the other. As their possessions in America is the source of their wealth, and as the trade which we carry on with our settlements there, is the most valuable branch of our commerce, the preservation of that trade, and these possessions, free and entire, is what each nation is presumed principally to have in view. But as these possessions and settlements lie at such a vast distance from each nation, there is no wonder if it is often very difficult for the government in Europe to form a right judgment of the facts that create differences betwixt the two crowns; the officers of both representing matters to their own court in such colours as may best excuse their own conduct, or promote their interest. So that, though each crown had the best dispositions in the world to do justice to the subjects of the other, it is many times next to impossible for either to form a true judgment of matters so soon as the impatience of the parties requires.

I am apt to believe, my Lords, that the differences, which have so long subsisted between the courts of Great Britain and Spain, are rather owing to these causes, than to any claim of sovereignty on the American seas, or to any exclusive right of navigation the Spaniards pretend to on these seas. The first, my Lords, has never yet been owned by the court of Spain; and, indeed, it is too ridiculous a claim for any people, not absolutely void of common sense, to insist on. The other claim, I think, is given up by the Convention. The preamble, my Lords, of that treaty, says, that 'Whereas differences have 'arisen between the courts of Great Bri'tain and Spain, on account of visiting, 'searching and taking of vessels, the seiz'ing of effects, the regulation of limits, 'and other grievances alledged on each 'side,' (for, my Lords, the Spaniards have their grievances as well as we;) 'therefore his Britannic Majesty, and his 'Catholic Majesty, having nothing so much 'at heart as to preserve and corroborate 'the good correspondence which has so 'long subsisted, have granted full powers 'to their plenipotentiaries to conclude 'this Convention.' This preamble, my Lords, shews a sincere intention, in each of the contracting powers, to yield to the just demands of the other. We, on our side, have complained of the searching, visiting and taking our ships, and the seizing our effects. The Spaniards, on their side, complain, that we have encroached upon their limits. Both crowns are sensible, that unless the causes of these complaints are removed, a rupture must follow.

But, my Lords, as we have already suffered a great deal, as our trade has been put under great encumbrances, and the losses of our merchants have been considerable, it was but reasonable that our claims should have a retrospect. Accordingly, we find, that the first Article of the Convention not only provides for the removing of all complaints for the future, but contains a general acknowledgment of our right to satisfaction for what is past. In that article, my Lords, we find, 'That the adjusting and regulating the 'pretensions for reciprocal reparation of 'the damages already sustained, and, 'above all, to find out means to prevent the 'like causes of complaint for the future, 'and to remove absolutely and for ever, 'every thing which might give occasion 'thereto, is acknowledged to be the only 'means of establishing, on a lasting foun'dation, the ancient friendship so desi'rable and necessary for the reciprocal 'interest of both nations, particularly with 'regard to commerce.' This, I am persuaded, your Lordships will agree to be the point, which our ministry ought to have had principally in view; and give me leave to say, my Lords, they were directed in this by your lordships resolutions, which included satisfaction for past, and security against future injuries. Thus, my Lords, your lordships and the ministry have proceeded on the same foundation, you have laboured to effect the same end.

What remains now to be considered is, whether the measures which the ministry have taken, whether the stipulations in this Convention are the proper means of obtaining these great purposes. Whoever considers, my Lords, the variety of disputes and pretensions that have subsisted of late between our court and that of Spain, must readily allow, that it is impossible to adjust them all at once. For this reason the administration of Great Britain found itself under a necessity of delaying, for eight months, the conclusion of the defi-

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nitive treaty, by which the respective pretensions of the two crowns are to be finally regulated. But his Majesty had so great a regard to the interest of his injured subjects, that he insisted upon, and obtained a definitive and express Article for immediate reparation. I know, my Lords, it has been objected to this Convention, that the renunciation of all claims which the Spaniards have to stop or search our ships, ought to have been the first and the most express stipulation, for fear that in the ensuing definitive treaty sufficient care should not be taken of that point. But, my Lords, I cannot see the least foundation for this objection; the security of our navigation, even by this preliminary, is strongly provided for. We find, by the latter part of the first article, that the plenipotentiaries are far from being at liberty to act in this respect as they please: they are tied down to proceed according to the sense of all the treaties now subsisting between the two crowns. Your lordships have found, that, by these treaties, the freedom of the navigation and commerce of the British subjects in the American Seas is sufficiently established. Therefore, my Lords, if this is all that we want in a definite treaty, as our plenipotentiaries are tied down by those former treaties, I should be glad to know where the force of this objection lies.

The treaties which are referred to, my Lords, are no less than eight; and as each preceding treaty received a confirmation by the subsequent, so the definitive treaty, that is to be concluded in eight months from the date of this Convention, must give a farther confirmation to every one of them. Our ministers therefore, my Lords, have acted in this measure no otherwise than the ministry in all ages have acted, when the points in dispute could not be immediately settled by the precise words of the treaties already in force. In such case, all that a minister can do, is to make another to explain them. They are to make express provisions in that treaty for all those cases which occasion doubt or dispute, whereby the meaning and intention of the preceding treaties is farther ascertained.

This, my Lords, is exactly the case betwixt Spain and Great Britain. We can make no treaty with that court, by which we can acquire any additional security for our navigation and commerce, which we have not already stipulated to us, in effect, by preceding treaties. But we can make a treaty, in which the stipulations shall be more comprehensive and express, so as to avoid all future disputes. As this is, and was, the only view of our ministry in the late protracted negociations, I do not see what greater satisfaction the nation can have, as to the definitive treaty that is to follow this Convention, than the expressly naming all former treaties, according to which all pretensions are to be finally regulated.

Let us suppose, my Lords, that the Spaniards entertain some chimerical notions, which at present they do not think fit to divulge; and that they are from thence resolved to insist upon certain stipulations in the definitive treaty, prejudicial to our interests: I say, supposing this to be their design, we have prevented both their persisting therein, and our negociators making any concessions of that kind. They must, by this Article, have a retrospect to former treaties. The tenour of these, is to be their rule. This Article, therefore, my Lords, is equal to a formal renunciation of their claim to a right of stopping, searching and plundering our ships; because, while they acknowledge the validity of these treaties they, in the strongest manner, disavow all such pretensions: nay, my Lords, I think that, according to the circumstances betwixt us and Spain, it is a much stronger security than we could have had from any renunciation; because we treat with this advantage on our side, that we have 155,000*l.* in hand, as an earnest for their abiding by every stipulation.

It may be here objected, that the Spaniards, very probably, entertain a quite different notion of the sense of these treaties; and that when they agreed that the proceedings of the plenipotentiaries should be according to them, they imagined that the tenor of these treaties gave them a right to search our vessels upon the American seas. This objection, I apprehend, may be removed several ways: and first, my Lords, their owning themselves indebted to our merchants, is a full and a direct acknowledgment that they acted against the meaning of treaties, as often as they stopped and searched our ships upon these seas. This, my Lords, is self evident; for if they believe that these treaties give them a right to search, how can we suppose that they would consent to pay damages for confiscating our ships, a natural consequence of their search? Therefore, my Lords, I do affirm, that the

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Spaniards could not have given us a stronger proof that they now understand these treaties in the very same sense with your lordships, and with all England, than their paying damages for having pretended to understand them in a different sense.

But, my Lords, whether they understand these treaties in the same sense with us, or not, it will be no disadvantage to Great Britain. Suppose the plenipotentiaries on both sides are met, and enter upon this point: they differ about it: what is the consequence, my Lords? Why the conferences are broken up, and we do then the very same thing that we can do now; we declare war; but with this difference, that we shall then carry on the war with 95,000*l.* more in our pockets than we have at present; besides which, we may add a still greater advantage, an uninterrupted prosecution of our commerce for six or eight months longer. There is still another answer to this objection, my Lords: the Spanish ministry are sufficiently apprized of the construction which Great Britain puts upon these treaties: they see it by the Resolutions of both Houses of Parliament, and they see it in every memorial presented on that subject; so that, unless they had been resolved to settle this point in the very manner in which we understand it, we cannot suppose that they would have agreed to the payment of the money, or put themselves to the trouble of appointing plenipotentiaries, and holding conferences to no purpose.

They cannot flatter themselves that our plenipotentiaries will dare to understand these treaties in any other sense than what both Houses of Parliament have affixed to them, or that our ministry will advise the ratification of any such unauthorized treaty. Upon the whole, my Lords, I will venture to say, that I have unanswerably removed the grand objection against this Convention, of its not being a definitive treaty, or a treaty which finally ascertains the commercial rights of this nation, and guards against their violation for the future. Thus, my Lords, I humbly hope I have made out my proposition, with regard to the reasonableness and advantages of this Article, to your lordships satisfaction.

So great a concession being made on the part of the Spaniards (and I will venture to say, my Lords, that it is as great as ever was made by any people not absolutely reduced) it was proper to take the other subjects of mutual complaint betwixt the two nations under consideration. That of the greatest importance, next to the liberty of an unmolested navigation, related to the Limits of Carolina and Florida. The Spaniards contend, that, in our settlement of Georgia, we have made some encroachments upon their frontier. We deny it; therefore this affair is left, by the second Article, to be settled by the plenipotentiaries. But, my Lords, this does not at all weaken the right we insist on to the province of Georgia. This right, as well as that to a free and uninterrupted navigation, is established by the treaties (particularly the American) which are to regulate the proceedings of the plenipotentiaries. Our ministry, therefore, have done wisely in thus referring that matter to a future discussion. Besides, my Lords, it is very possible that the Spaniards may have some just causes of complaint with regard to the boundaries of those provinces. However, it is reasonable, at least, to hear what they have to say upon this head; and, if their complaints are well grounded, to remove the cause of them. This, my Lords, is no more than doing as we would be done by. As to leaving the territories of both in the same state they are in at present, without raising or carrying on any additional fortifications, it is an article that we cannot justly complain of; for, besides the equity of the thing in itself, it is as much for our interest as for that of Spain, since they have no more liberty in this respect than we have. Besides, it is an usual stipulation in all treaties made for settling boundaries.

The next Article, my Lords, relates to the Satisfaction which our Merchants are to have for their past Losses, and is definitive. By this, my Lords, his Majesty has set a noble example to his successors, in providing immediately for the interest of his subjects, while the interests of his crown are referred to a future discussion. It is true, that the sum stipulated for their relief is not equal to their first demands, but no reasonable person will object to this, when he reflects that losses of this kind are commonly aggravated; and that it would have been imprudent, if not unjust, to have insisted upon the rigour of such demands, and thereby have defeated the whole. Accordingly, our commissaries thought fit to reduce the original sum to 200,000*l.* When this was done, my Lords, there was still another difficulty. His

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Catholic Majesty's funds in America, from which this money was to be paid, are very uncertain, and the disbursements from them slow and precarious. His ministers insisted, that payment should be made either in the places where the confiscations happened, which must have been a vast inconveniency to the sufferers; or that they should accept of security for it on the Chamber of Commerce at Seville. This was still worse, by reason of the difficulties that attend such a payment, and the perquisites that must be deducted for the several officers. Upon these accounts a further deduction of 45,000*l.* was allowed for prompt payment, which is to be made at London, within four months after the exchange of the ratifications. Now, my Lords, as we had made such deductions, it was but reasonable that the Spaniards should likewise on their parts recede from the rigour of their demands, which amounted to 180,000*l.* and were reduced to 60,000*l.* This abatement, in proportion to the sum, is considerably larger than that made on our part, and is a proof, both of the zeal of the ministry here for the interests of the nation, and of the willingness and sincerity of the Spaniards to fulfil their engagements. This abatement was the more extraordinary, being made out of a debt that we had, by treaty, owned to be due. The same Article provides, that it shall not be pretended that these reciprocal discharges extend to the accounts and differences which subsist, or are to be settled between the Crown of Spain and the South-Sea Company. By this, my Lords, we see that all the Accounts betwixt that Crown and the aforesaid Company are entirely distinct from those that are settled by the commissaries appointed by the treaty of Seville, and that his Catholic Majesty has no manner of pretence for detaining a shilling of this 95,000*l.* on account of any debt that may be owing him by the South-Sea Company. On the other hand, my Lords, by this Article, care is taken that the South-Sea Company shall be entitled to all the debts which they can claim of that Crown, or its subjects.

The fourth Article, my Lords, relates to some Ships, the value of which was included in an Estimate made by the commissaries appointed by the treaty of Seville, and which makes a part of the 155,000*l.* stipulated for the relief of our merchants. Nothing, therefore, could be more reasonable than, if, in consequence of the orders dispatched to the Court of Spain for that purpose, the whole, or any part of the payment for these ships has been made in America, such payment should be deducted out of the stipulated sum. Care is, notwithstanding, taken in the same Article, that the payment of the 95,000*l.* shall not be, for that reason, in any manner delayed; so zealous, my Lords, was our ministry for obtaining an immediate relief for our suffering merchants; and so willing was the Crown of Spain to grant it, that, by the latter part of the Article, she entirely relies on the faith of the government here, for refunding what shall appear to have been already paid.

The next Article, my Lords, provides that the ratifications of this Convention shall be delivered or exchanged at London, within the space of six weeks, at farthest, after they are signed. This, my Lords, is as short a time as could have been allowed for that purpose, and shews, that our ministry here were resolved that not a day should be lost in bringing this affair to a speedy issue.

The first separate Article, my Lords, is calculated to remove the common objection of the tediousness of all negociations with that Court. By this Article, the ministers plenipotentiary, who are to meet at Madrid within the space of six weeks, to be reckoned from the day of exchanging the ratifications, are named on the part of Spain as well as of England; and, by the latter part of the said Article, a very short term is appointed for the payment of the 95,000*l.* In fine, my Lords, to conclude this short view of the stipulations of the Convention, the ministry has had so just a regard to the interest of the subjects, that an express provision is made for the restitution of a ship, the value of which is not comprehended in the estimate made by the commissaries; because, it seems, the circumstances of her capture were, on the part of Spain, more inexcusable than those of any of the other captures.

From this impartial survey, my Lords, I hope it will appear to your lordships, that his Majesty, in the whole course of this negociation, has had nothing so much at heart as the interest of his subjects; and that the same has been faithfully and successfully prosecuted on the part of his ministry. This negociation, my Lords, therefore, may be justly looked upon as the performance of those promises and as-

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surances which the Parliament has received from the throne, as often as it has addressed it on this head. And as the prosperity of his Majesty's subjects, and the honour of his Crown are inseparable, a just regard in all the stipulations has been had to those important points. Care has been taken, that all the concessions that are made in this treaty, have been made on the part of Spain. Therefore, my Lords, I hope, on this occasion, all contentions and animosities will cease amongst us, since his Majesty has now removed the causes which have so long and so unhappily divided us. This, my Lords, is the only means of making a just return to the regard which his Majesty has always expressed for your lordships resolutions and advice, since every step of this negociation has been conducted, according to what appears to have been the sentiments of Parliament.

Your lordships, in all your deliberations upon this great and important affair, have expressed a just sense of the miseries which war entails upon a trading people; you have expressed your desire of securing the blessings of peace, if they could be secured with the dignity and interest of this nation. This negociation, my Lords, crowns the wishes of parliament, by answering all these great ends; and it has been conducted in such a manner, as to convince those with whom we were treating, that his Majesty was as ready to do himself justice by arms, as he was willing to receive it by negociation. No sooner, my Lords, was this Convention concluded, than his Majesty laid the treaty before this House. All that now remains, is, for your lordships to add strength and weight to his Majesty's negociations, by your approbation. Therefore, my Lords, I take the liberty to move,

"That an humble Address be presented to his Majesty, to return him the Thanks of this House, for having been graciously pleased to lay before us the Convention between his Majesty and the king of Spain, dated the 14th day of January last, N. S. together with separate Articles; and to express the just sense which this House hath of his royal care of the true interests of his people; to acknowledge his Majesty's great prudence, in bringing the Demands of his subjects for their past Losses, which have been so long depending, to a final adjustment by the said Convention, and procuring an express Stipulation for a speedy payment; and in laying a foundation for accomplishing the great and desirable ends of obtaining future security, and preserving the peace between the two crowns: to declare our confidence and reliance on his Majesty's royal wisdom, and steady attention to the honour of his crown and the welfare of these kingdoms; that, in the Treaty to be concluded in pursuance of this Convention, proper provisions will be made for Redress of the Grievances so justly complained of; and particularly, that the freedom of navigation and commerce in the American Seas, to which his Majesty's subjects are entitled by the law of nations, and by virtue of the Treaties subsisting between the two crowns, will be so effectually secured, that they may enjoy unmolested their undoubted right of navigating and carrying on trade and commerce from one part of his Majesty's dominions to any other part thereof, without being liable to be stopped, visited, or searched, on the open seas, or to any other violation or infraction of the said treaties; the mutual observance thereof, and a just regard to the privileges belonging to each other, being the only means of maintaining a good correspondence and lasting friendship between the two nations: To express also our firm dependence, that, in the Treaty to be concluded in pursuance of the said Convention, the utmost regard will be had to the rights belonging to his Majesty's crown and subjects, in adjusting and settling the limits of his Majesty's dominions in America: and to give his Majesty the strongest assurances, that, in case his just expectations shall not be answered, this House will heartily and zealously concur in all such measures as shall be necessary to vindicate his Majesty's honour, and to preserve to his people the full enjoyment of all those rights to which they are entitled by treaty and the law of nations."

The Lord *Carteret*:

My Lords; I could have wished this affair had come under our deliberation in another shape. Since I have had the honour of sitting in this House, I never heard a more complicated question put to it: and, my Lords, it is a very unpleasant task to oppose a motion, when one cannot do it without opposing a measure that carries, or seems to carry, the marks of duty and gratitude to his Majesty. But, I fear, the Address proposed will be the most dangerous compliment this House ever made, the most fatal his Majesty ever re-

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ceived. Had the Convention, my Lords, without any consideration of this kind, been the subject of debate, I should not have had the least difficulty in expressing my sentiments: but, as the present motion is upon an address to his Majesty, I own, that I am under some difficulty. However, my Lords, I will endeavour, in what I shall advance upon this subject, to preserve that entire respect I ever shall have for my sovereign; and, at the same time, to deliver myself with freedom, in regard to the interests of my country, which shall always be first in my thoughts.

The noble lord, who made the motion, has endeavoured to demonstrate to your lordships, the great advantages arising to this nation from the Convention; he has examined every Article by itself, and finds it, upon the whole, to be a just and honourable treaty. My Lords, I shall take the freedom to examine in the same manner, and shall endeavour to shew your lordships, that it answers neither of the two great points the nation has in view, I mean, reparation for past, and security against future injuries. At the same time, my Lords, I shall keep in my eye the Resolutions which your lordships came to last session, which our ministers ought to have kept close to in all their subsequent negociations with Spain.

The noble lord, towards the beginning of his speech, with great accuracy displayed the advantages accruing to Great Britain from a right understanding with Spain; his lordship has likewise taken notice of the disadvantages which the great distance betwixt Old and New Spain puts that government under, by making it impossible for them to know the true state of the differences that frequently arise betwixt the subjects of the two crowns, so soon as the impatience of our merchants requires. This, my Lords, might be a very good argument in favour of the Spaniards, if the injuries we so justly complain of were but of yesterday. But give me leave to say, my Lords, that they are of a very long standing. The Spaniards, slow and phlegmatical as they are, had they been in the least disposed to do us justice, might have, by this time, made a thorough enquiry into the nature of these complaints, they might have been fully informed in every particular that either their own governors, or the subjects of England had to alledge. They have had almost 20 years, my Lords, for this enquiry; and if their dispositions had been so just as the noble lord seems to think they are, it is impossible but that, during that time, they must have found the means of giving us satisfaction. But, my Lords, it is plain, upon the principles they went, we never could have satisfaction. If a seizure of one of our ships was made, we applied to the court of Spain for redress: we laid our grievances before their ministers, and they sent orders to America to their governors to enquire into the facts. My Lords, I say, that was not the method by which we were to have reparation; as the noble lord himself observed, it was the business of their governors to excuse their own conduct, by throwing the blame upon us: therefore, we can never suppose that they would admit themselves in the wrong. So that, if the court of Spain was to form their judgment upon the representation of their governors, we were always sure to have it given against us.

But, my Lords, though the Spanish governors had really been disinterested, or any way disposed to do our merchants justice, yet, as the facts were stated to them from the court of Spain, the case would have been the same. For let us suppose, my Lords, that one of our ships, in sailing from one part of his Majesty's dominions to another, is surprized by the Spaniards, they find therein logwood, cocoa nuts, or Spanish coin, accordingly she is carried to a Spanish port, where these facts being proved, and finding that the ship was taken within what they ridiculously call their latitude, she is confiscated. What follows? The owners apply to the court of Spain, their solicitations are backed by our minister there. Perhaps they obtain an order to the governor of the place where their ship was confiscated, commanding restitution, provided such and such facts shall not appear. But what are these facts, my Lords? They are facts that may happen to any English ship, navigating these seas, in the strictest manner prescribed by treaties. For it is evident, that our merchants may have cocoa nuts and logwood in their ships, without being concerned in an illicit trade; they may have Spanish coin too, and yet not a man of the whole crew have been near their settlements. The wood and nuts are commodities growing in our own colonies; and the silver is current all over America. The French and the Dutch colonies have great plenty of it, and the English more. So that, if all our ships having these things on board are liable to confiscation, not one in twenty can be safe.

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As to our ships coming within a particular latitude, this is still a more unjust ground of confiscation, if possible than the other. You have heard it plainly proved, my Lords, at the bar of your House, that no master of a vessel navigating in those seas, can know exactly what course he shall hold; be his caution ever so great, he may be forced to make the Spanish coasts; he may be forced to come within pistol-shot of their shore, let it be ever so distant from his intention to carry on any commerce there. For which reason, my Lords, if we once admit our sailing near their coasts to be a just cause of capture and confiscation, there must be an end of all our commerce in America. But as our seamen are subject to such difficulties in their navigation on these seas, this claim of the Spaniards absolutely destroys the freedom of navigation. By the law of nations the high seas are open to all, and it is an act of piracy to search or rifle any ship navigating thereon.

Thus, my Lords, according to this claim of Spain, an order for restitution, even in the most unjustifiable cases of confiscation, can be of no service to our sufferers, when clogged with provisoes which it is impossible for them to remove. But if the noble lord will give an instance wherein that court orders restitution to be made of any ship, because taken upon the open seas; if he can shew us, that the Spaniards ever once acted, in confiscating an English ship, according to the fundamental maxim of all our navigation in these seas, namely, 'No search but in port;' then I shall agree with his lordship, that it may be rather owing to certain accidental causes, that the differences betwixt our court and that of Spain has so long subsisted, than to any exclusive right which the Spaniards pretend to on these seas.

The noble lord, indeed, very rightly observed, that a great many circumstances concurred to create frequent differences betwixt the British and Spanish subjects in America; such as the contiguity of the dominions of the two crowns, and the different genius of the people; but, my Lords, there is no other way of removing these obstacles, but by preventing all disputes about property, navigation, and commerce, by strictly adhering to the maxim, 'No 'Search.' If we do not adhere to it, my Lords, if we admit of the claim of Spain, in the smallest degree, we must have eternal jars and differences with them; they will always find pretences to obstruct and ruin our commerce.

Having spoken in general to this point, it may be now proper to take notice of what fell from the noble lord, in the particular observations he made upon every article of this treaty. His lordship remarked, that the Spaniards have shewn, by the preamble, a sincere desire to yield to our just demands. My Lords, I cannot perceive wherein this sincerity consists. If they were so very sincere, why did they not give us an ample security for our navigation, in the terms contained in your lordships first resolution upon this head, which you came to last session? We there see that our just and undoubted rights are founded on the express words of treaties. What necessity, therefore, of appointing plenipotentiaries to decide differences? I am sorry, my Lords, to see that word at all made use of upon this occasion; it implies a doubt, and that something might be said on one side as well as on the other. This, my Lords, is a concession which we ought to be very cautious in making, or even seeming to make: If any differences were to be referred to a future discussion, it ought to have been those relating to the limits and boundaries of the two nations. This might have been decided by commissioners meeting on the spot, or by explaining the words of treaties relating thereto. But we ought not to have admitted our just and undoubted rights to navigation to be put on the same foot with a disputed boundary.

The noble lord lays a good deal of stress on the care of our ministry in procuring a definitive satisfaction for past losses. My Lords, if I could be sensible that they had effected even this point, I should be very willing to join with the noble lord in his encomiums upon our administration. But, even by the noble lord's own account of it, it is but a very sorry satisfaction. The demands of our merchants amounted to 247,000*l.* they uncontrovertably proved, not only before the commissaries in Spain, but at the bar of both Houses of Parliament, that they were sufferers to that amount, and consequently that they had a right to that sum without any deduction. But a deduction is made of 47,000*l.* For what reason my Lords? For none that ever I heard, but because the Spaniards would have it so. Not contented with this, 45,000*l.* more must be deducted for prompt payment. Prompt payment of what? Of

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a debt contracted by rapine and plunder. I have heard, indeed, when a debt was contracted by the mutual consent of the parties, and payable at a certain term, that one of the parties has made a deduction of a proportionate sum of the whole for prompt payment. But, my Lords, was this the case betwixt the Spaniards and us? Were we obliged to accept of payment in what manner, and at what term, his Catholic majesty thought fit? Were our merchants reduced to such a pass for want of ready money, that they were glad to deduct near a fourth of their sum for prompt payment? But, my Lords, it cannot even be called prompt payment; for we find by the first separate article of the Convention, that his Catholic majesty is not obliged to pay it till four months after the exchange of the ratifications. Now my Lords, let me suppose a case that is very possible: your lordships see, by the first article of the Convention, that the plenipotentiaries are to meet at Madrid, within 40 days after the exchange of the ratifications. It is possible they may not agree, the conferences may be broke up the first sitting; then all negociation is at an end, and the sword alone must decide it. Will the Spanish court, in this case, think itself obliged to pay that money? Does their behaviour in times past give us room to imagine that they will look upon this debt as binding upon them, when all other conditions betwixt them and us are broke through? So that, though the noble lord has been pleased to represent this stipulation in favour of our merchants as definitive, yet when we look into the whole of this transaction, it is, in reality, eventual, and depends on the issue of the future conferences.

There are one or two circumstances more, that I must observe with regard to the boasted satisfaction. I find, that though the sum allowed to our merchants is 155,000*l.* yet 95,000*l.* only is to come out of his Catholic majesty's pockets. How comes this? Says the noble lord, we allow 60,000*l.* as a balance due to the Spaniards, in consideration of their losses sustained by the sea fight off Passaro, which we had engaged by treaty to make good to them. But in what manner were we to make them good? We agreed that they should have all the ships then taken restored to them, with the guns, sails, equipage, in the condition they were then in, or if sold, they were to have the price that was paid by the purchasers. Whose fault was it, my Lords, that this stipulation was not punctually fulfilled? Was it not owing to the Spaniards themselves, who refused to accept of those ships when offered to them? And are we to pay 60,000*l.* for no other reason but because the Spaniards must be gratified in every extravagant demand?

But, my Lords, this is not all; his Catholic majesty tells us farther, that, before he fulfils one article of this Convention, our South Sea company must pay to him 68,000*l.* more, which is the same thing as telling us, that, in effect, no more than 27,000*l.* is to come out of his pocket. It is in this light, my Lords, that I view the protest given in, by his Catholic majesty's minster, to Mr. Keene. The paying of this 68,000*l.* is, by that declaration, made an absolute condition, without which the Convention cannot so much as exist. Now, my Lords, though I do not say this demand of the court of Spain is founded on justice, and though I shall allow the declaration has not that mark of authenticity with the Convention itself; yet I make no doubt but the Spaniards will look upon the South Sea company's refusing to pay the money, as a just reason for their refusing to fulfil any one article of the convention. I say, my Lords, they will pretend that this refusal gives them such a right; and though I am far from admitting that right, yet if they stick by that pretence, it is the same thing in effect to our merchants, as if they had such a right, and this nation must be left to the ignominy of submitting to treat anew. Thus, my Lords, I think it appears, that the stipulation in favour of our merchants, is so far from being definitive, that it depends upon two very uncertain, nay improbable events; a right understanding betwixt the plenipotentiaries, and the South Sea company's agreeing to pay 68,000*l.*

The noble lord was pleased to consider this Stipulation, as it is called, in favour of our merchants, as a disavowal, on the part of Spain, of all the unjust claims and pretensions she had set up, and paying damages for the wrongs she has done us. My Lords, I wish I could prevail with myself to consider this Article in that light. But it appears to me, that the Spaniards are so far from disavowing their unjust claims, that this Article is a kind of aggravation of them. We insisted on satisfaction for the losses of our merchants; the Spaniards tell us, that they will give us some small satisfaction, but clog it with such terms as

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they are sure we cannot comply with. This is the same thing as telling us, that if we will gratify them in one extravagant demand, they will gratify us in another. Thus, my Lords, they are far from owning themselves to be in the wrong. But, my Lords, here is another circumstance to be considered: the king of Spain expects that the South Sea Company shall pay him, within a short time, the 68,000*l.* whereas he does not, by the Convention, oblige himself to pay the 95,000*l.* till four months after the ratifications are exchanged. Now, if his Catholic majesty should think fit to fix this short time, mentioned in his declaration, at between two and three months, he can pay us with our own money. Nay, my Lords, if, before the four months are expired, the conferences of the plenipotentiaries should break up, he has then 68,000*l.* of our own money in his pocket, and will very probably, think himself under no obligation of paying back one shilling of it in consideration of our merchants' losses. The Stipulation, therefore, of the 95,000*l.* is so much farther from being a definitive Article for the relief of our merchants, and an acknowledgment on the part of Spain for the wrong done us, that it appears to be only a bait for drawing us in, to pay 68,000*l.* upon an unjust and arbitrary claim.

The noble lord was pleased to say, that the ministry had proceeded on the same foundation with your lordships, and laboured to effect the same end. My Lords, this will be best seen by comparing your Resolutions in the last session with the Stipulations in the Convention. Your lordships resolved, That it was the just and undoubted right of the subjects of Great Britain, to sail from one part of his Majesty's dominions to another, without being stopped or searched on any pretence whatsoever. Is there any Stipulation in the Convention, my Lords, answerable to this Resolution? we there find, that this right is so far from being acknowledged to be just and undoubted, that it is submitted to the discussion of plenipotentiaries, who have eight months allotted them, to consider of the justice of a point, which, your lordships have already found, can admit of no manner of dispute. But, adds the noble lord, these plenipotentiaries are tied down to proceed according to the treaties subsisting betwixt the two crowns, which treaties effectually secure our navigation and commerce. My Lords, I can by no means admit of the inference, which the noble lord would draw from this, that the Spaniards agreeing to proceed according to treaties, is equivalent to an ample renunciation of their claim to stop and search our ships. If the Spaniards had ever, in plain terms, refused to abide by what is stipulated in these treaties, I should then readily admit this Article of the Convention to be a sufficient confirmation of their validity. But that is not the case, my Lords, the Spaniards, since the beginning of all our differences, have always expressed a great regard to these treaties; your lordships see, by the papers lying on your table, that their minister affects to abide by what is there stipulated, and to plead for no other right than what is warranted by these treaties. So that it is very probable, the Spaniards look upon this Article as an acknowledgment of their demands. The very reasons given by the noble lord, why we should look upon it as an acknowledgment in our favour, operate equally on their side. For, if we are to believe that they understand them in the same sense with us, because we have already explained them, may they not believe that we understand them in the same sense with them, for the same reason? Thus, my Lords, the very argument urged by the noble lord for our looking upon this Stipulation as equivalent to an express renunciation on the part of Spain, is, in my humble opinion, the strongest reason that could possibly have been urged to the contrary. If, as the noble lord says, we can acquire nothing new by any definitive treaty, I should be glad to know to what purpose the nation has been put to such a vast expence in armaments, and to what purpose the negociations have been protracted so many years? my Lords, I conceive we have a great deal to obtain; we are to obtain an express acknowledgment on the part of Spain, that she disclaims all her pretensions to stop or search our ships on the open seas. But this I suppose to have been the language of our negociators at the Spanish court:—Will you consent to the point of 'no search?' and that their answer was, 'We will not.' Should our ministers then have been satisfied with it? no. They should have said, 'We will 'proceed no further:'—Then, my Lords, if a rupture had ensued, the support of parliament and the voice of the nation would have borne them out in all their proceedings. My Lords, if we had obtained a previous acknowledgment of this nature, I do not know that all the remain-

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ing differences, on that head, could have been important enough to merit a place in a definitive treaty; because no case could happen, in our American navigation, that could have created the least dispute. On the other hand, my Lords, without such an express acknowledgment, a definitive treaty, let it be conceived in ever so strong terms, will be found ineffectual, and we shall have the same round of negociations to begin, and the same expences to repeat. The noble lord made a supposition, that we can be no sufferers, even though the Spaniards should understand these treaties in a sense different from us; nay, that we must be gainers, since, in the worst event, it is but going to war. For, says his lordship, we can then go to war with 95,000*l.* more in the nation. I have already considered what probability there is, that the Spaniards will ever pay that sum out of their own pockets; but give me leave to observe, my Lords, that though they should pay it, this nation may soon lose ten times that sum, since its subjects have no security for carrying on their trade in America, during the eight months these plenipotentiaries are sitting. The very Stipulation which refers the security of our trade there, to a future discussion, admits it to be a doubtful point; and as there is no article in the Convention to bind the Spaniards up from continuing their depredations, are we not to presume that they will look upon themselves at liberty to continue them till the definitive treaty is concluded? hence, my Lords, there must be a total interruption of our trade to our colonies in America, during that time, or we must carry it on under evident disadvantages.

Now, my Lords, I shall, as I proposed, take the liberty to consider how well this Treaty agrees with the Resolutions your lordships came to on this head. I have already partly taken notice of the first; and give me leave to add, my Lords, that if our negociators had kept that Resolution in their eye, as they ought to have done, an Article, or a concession, founded upon it, must have answered all the purposes of their negociations, with regard to future security. For if, as that Resolution implies, there can be no such thing as contraband or prohibited goods in British ships sailing from one part of his Majesty's dominions to another, the Spaniards cannot have the least pretext for stopping or searching them, unless they are found actually trading in their ports.

The next Resolution, my Lords, says, "That British ships have been violently seized and confiscated by the Spaniards, upon pretences altogether unjust and groundless, and that the sailors on board such ships have been injuriously and barbarously imprisoned and ill-treated." Now, as your lordships found this to be a fact, I should be glad to know what reasons the negociators of this Convention can assign for our not obtaining satisfaction for these insults and barbarities. Is this nation, my Lords, used to bear such treatment, without receiving any satisfaction? Are we so much reduced, are we so much despised, that we are obliged to confine our complaints within ourselves? Are our merchants and sailors, the two most valuable bodies of men among us, to be thrown out of the protection of the kingdom? And are the liberties of the subjects of Great Britain to lie at the mercy of an insulting enemy? In private cases, my Lords, betwixt man and man, regard is had to interruption of business, costs are given for the loss of time, and much more for the loss of the liberty or limbs of the person injured. But, it seems, in a national case, where the honour of a whole people is concerned, no consideration is to be had. My Lords, I am sorry that any such distinction should obtain amongst a free people; I am sure, if we long suffer any such distinction to take place, we shall not be long free. If the world shall once entertain an opinion, that our ministers are so weak that they dare not, or so wicked that they will not, assert the honour of the nation, we shall be soon subject to the insults of every petty state in Europe.

Your third Resolution, my Lords, says, "That the frequent applications made at the court of Spain, on our part, for redressing these notorious abuses and grievances, for preventing the like for the future, and for obtaining adequate satisfaction, have proved entirely fruitless and of no effect." It is plain, that your lordships intention, in coming to this Resolution, was, that these applications might be more effectual when backed by the concurrence and authority of parliament. But does it appear that they have had any weight? Is there one stipulation in this Convention that can be called satisfactory, either to the honour of the nation, to our merchants, or to our sailors? Can the best friend of the Convention pretend, that the sum stipulated for their relief is adequate to their losses?

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No, my Lords, I think that point is entirely neglected. So that it must be owned, that your Resolutions were not designed to have any effect on the measures to be pursued, or that our ministers have taken care they should have none.

The second Article of the Convention, my Lords, relates to the regulation of the Limits of Florida and Carolina. Every man in the nation is sensible how deeply the national honour is engaged in the preservation of our settlement in Georgia, which is a part of Carolina; but, it seems, the Spaniards claim it as a part of Florida. The nation has been at immense charges in settling and supporting that colony; and should we now give it up, or even suffer our possession of it to be called in question, all Europe must look upon us, either as the most unjust, or most weak people under the sun. Our injustice must appear, by our disposing of, in property to others, a doubtful territory; and our weakness must appear, in suffering any part of the property of this nation, or its subjects, to be determined by the event of any negociation whatsoever. The provision made by the latter part of this article, that the fortifications shall not be encreased, but remain in the situation they are in at present, to me, bears a very unpromising aspect. To me it appears, that we are somewhat worse than doubtful of our right to that colony; that there is a design to give up its inhabitants to the mercy of Spain, if our wise plenipotentiaries should, by their full powers, think fit to declare the possession of this tract to that crown. My Lords, the people of Georgia transported themselves thither upon the faith of parliament, and they have been at great expences, labour and industry, to make a settlement there. It will be, therefore, no wonder, should they be obliged to abandon it, if they think themselves very hardly, very unjustly treated. But how hard, how unjust, should they see themselves abandoned to the mercy of their enemies, through the weakness of our negociators! In such case, my Lords, I cannot conceive how any subject of this crown, whose property lies in America, can think himself secure of enjoying it. For, my Lords, I will venture to say, that our right to Georgia is as clear and undoubted as our right to any part of America; but though we have had a long and an uninterrupted possession of that territory, it is now disputed by the Spaniards. The late king, Charles 2, made a grant of it to certain proprietors, whose property the parliament bought out ten years ago, at a considerable expence. The legislature has granted large sums to support this infant colony; and the Spaniards, so far as appears to the world, never questioned our right of possession, till the inhabitants had made a great progress in clearing the ground, and erecting houses. My Lords, I do not positively affirm that our plenipotentiares will give up this Settlement, but, I think, it is ignominious to this nation, to suffer so much as her right of possession to be questioned. It is a prostitution of the public faith, and giving our plenipotentiaries a power, which no plenipotentiaries of this crown ever had before, to dispose of the property of the nation, without obtaining the least equivalent.

But, my Lords, setting aside these considerations, I cannot account for some late measures, if our right to Georgia is in the least questionable. Though the pretensions of the Spaniards to this colony are but of a very late date, yet they are older than the regiment we have raised for its defence. And, my Lords, if we were not resolved, at all events, to keep possession of it, why was the nation put to the expence of raising this regiment, and of 10,000*l.* for a train of artillery and other stores and necessaries? If, on the other hand, it is intended that these forces should do their duty, in case of an attack from the Spaniards, and to support our right by arms, where is the consistency of submitting this right to the decision of plenipotentiaries? Why was the nation put to so great an expence, since it must be all lost, if our plenipotentiaries should yield up this point? However, my Lords, by this Article we expose his Majesty's forces to the mercy of their enemies: or should the plenipotentiaries abruptly break off their conferences, immediate war must unavoidably follow. What a condition then must all the subjects of Great Britain in these parts be in! By this Article they are disabled from taking the necessary precautions to defend themselves. We have no fortifications there at this time, that can be of any service, or afford any protection to our troops, in case of a rupture. And the Spaniards have a fort in the neighbourhood, from whence they can annoy us, and are not above three days sail from the Havanna, from whence they can be supplied with troops and provisions.

The noble lord supposed the differences

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betwixt us and the Spaniards to be only about some encroachments made by our subjects upon the frontier of Spain. But, my Lords, I believe it will be found upon examination, that their pretensions are to the whole Settlement, and that they dispute our right, even to Carolina. And, my Lords, I do not see why they might not as well have claimed Jamaica itself; since, if one reason for surrendering up Carolina or Georgia can be given, I will engage to give two for our surrendering up Jamaica. For the first we hold by virtue of prior possession, which is all the right the Spaniards have to every foot of land they possess in America; and this was not only never before disputed, but is confirmed by treaty. Now, my Lords, our right to Jamaica is indeed no better than a right of conquest; and the Spaniards have not yet been prevailed with to renounce it. As it therefore was conquered from them in time of usurpation, I should have been less surprized, if by this Convention our negociators had consented that all the inhabitants and forts of that island should be disarmed, till such time as they could determine which crown should enjoy it.

What I have already said, my Lords, comprehends in a great measure, my objections to the third Article of this Convention. I shall only add, that I cannot see by what authority any commissary whatsoever could take upon him to dispose of the property of private subjects. I do not know that our constitution vests our minister with any such powers. An Englishman has a good action against the greatest minister, in whatever capacity he acts, nay against the king himself, if he apprehends that his private property is invaded. But here, my Lords, it is invaded and disposed of in favour of a foreign power, a power which has shamefully wronged them, and yet they are to have no relief.

It has been much insisted on, my Lords, that this satisfaction to our merchants is a tacit acknowledgment on the part of Spain, that she has been in the wrong. But, my Lords, if Spain acknowledges herself to be in the wrong, can any man shew me a reason why we should give Spain 89,000*l.* upon no other account than because she was in the wrong? If our negociators, my Lords, have a mind to be thus excessively generous, I hope they will pay the deductions they made out of their own pockets; I am sure, if they do not, our merchants have very just grounds to call them to an account. But, my Lords, there is a great difference betwixt a stipulation to pay money, and the actual payment of it. Notwithstanding what was said by the noble lord about the difficulties of our being paid in any other manner than that specified by this Convention, I cannot but be of opinion, that if his Catholic majesty had been sincerely disposed to pay this money, he might have easily commanded such a sum as 95,000*l.*

However, there is something very inconsistent in the Allowance made for the Spanish Fleet destroyed in the naval action twenty years ago. If we had ever disowned the justice of our attacking them at that time, if we had ever called any of our officers or ministers to an account for what happened, it would have been just in us to have given them satisfaction for the loss they then sustained. But, so far from that, my Lords, the action was applauded by every power abroad, it was approved of by our government at home, and the Admiral who conducted the Expedition, was, for his good service then performed, created a lord by a wise and discerning prince: so that, my Lords, from this stipulation, it may be truly said of our government, that it approves at home, what it dare not justify abroad.

The importance of the fourth Article, my Lords, has been greatly magnified, even so far as to shew that his Catholic majesty reposes entire confidence in our court, since he thereby agrees to pay by his governors in New Spain a sum that, for aught he knows, may have been paid abroad. But this, my Lords, can never pass with any man, who observes in what manner things are managed betwixt the court of Spain, and the governors of their settlements in America. The court knows very well that these governors are neither obliged nor willing to make any such payment. And, even though the value of these ships were actually paid, I do not see how the Spanish court can be said to repose any confidence in his Majesty, or the ministry here. For, my Lords, as the whole sum of 95,000*l.* is not payable till four months after the ratification, the Spanish court had sufficient time, betwixt the signing this Convention and the term of payment, to inform themselves whether this money had been paid or not. If it has been paid, they have only to acquaint their minister here, and he will, no doubt, take care to discount it out of the whole

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sum; so that, I think, my Lords, they have taken care that we should not overreach them in this Article.

I have but two more facts to trouble your lordships with; but they are of such a nature, as to serve clearly to inform us in what manner the Spaniards intend to fulfil this Convention, and in what sense they understand the treaties now subsisting betwixt us and them. The first fact is upon the face of the Convention itself. The second separate Article, my Lords, stipulates, that the owners of the ship the Success shall give security to the Spanish minister at London, to abide by what shall be determined by the plenipotentiaries with regard to that ship. And, my Lords, by the same Article it is owned, that that ship was taken as she was coming from the island of Antigua. Thus, my Lords, we see in express terms, that it is admitted by our ministers to be a doubtful case, whether or not a ship sailing from one of our own islands, not so much as pretended to be near one of the Spanish colonies, may be a lawful prize. After this unforced, genuine import of this Article, what becomes of all the concessions made to us on the part of Spain, by this Convention? If the merchants of this nation shall find, that a ship sailing from one of our own colonies under English colours, and navigated by Englishmen, is confiscable by the Spaniards, or, at least, that it is doubtful if she is confiscable or not, who amongst them can be supposed so foolish, as to hazard one shilling of their effects on board a ship in these seas, where their enemies can act with such injustice and impunity? I know, my Lords, it has been said, that this reference to the plenipotentiaries is only with regard to the value which is to be paid for the ship, in case she is not specifically restored; but, by the words of the Article itself, it is quite otherwise. For this ship was taken on the 14th day of April, in the 11th year of his present Majesty, and the determination of all cases of capture, that have happened since December last, is referred to these plenipotentiaries to be determined according to treaties. So that, my Lords, this Article says, in effect, that it being doubtful by treaties how far an English ship, sailing from an English colony to Great Britain, is liable to be seized and confiscated by the Spaniards, therefore the sense of these treaties must be determined by two Spanish and two British plenipotentiaries.

The next fact, my Lords, I am to mention, is a fact which your lordships heard at the bar of this House, from the person who was principally concerned. It is the case of captain Vaughan, who was taken by the Spaniards, his ship confiscated, and himself imprisoned at Cadiz, where he was detained for several weeks after the Convention was signed. My Lords, this was a plain explanation on the part of Spain, that her ministers understood the treaties named in this Convention, in a sense quite different from that of this House; and that she still expects, nay, is resolved to exercise, not only her claim of stopping, searching, and confiscating our ships, but the right which she has usurped of imprisoning and maltreating the subjects of this nation. This, my Lords, our ministers themselves cannot but be sensible of, since it appears, that our plenipotentiary at that court used his utmost endeavours to obtain the captain's release, but all in vain, till they had satisfied their malice. Our minister, my Lords, presented memorial after memorial; but that captain's letters plainly and honestly tell us, it is not memorials that will heal his wounds. My Lords, the manly expressions in those letters, that language of liberty in a state of confinement, touched me to the quick. And this fact, my Lords, must give us sufficiently to understand, that the Spaniards will think themselves under no manner of obligation, from the Convention, to discontinue their depredations and barbarities. For if, as the noble lord insisted, this treaty is a disavowal of their unjust claims, why did they continue the exercise of them, in the person of this man, after that disavowal was made?

Having said thus much, my Lords, with regard to the Convention itself, I shall trouble your lordships with a very few words on the subject of the Address moved for. Addresses from the Parliament to the Crown have always been, or ought at least to have been, looked upon as the best informations which the prince can receive, not only of the interest, but the sense of the nation. And, my Lords, if we agree to this Address, I am afraid we shall act contrary both to the duty we owe to his Majesty, and that regard we ought to have to the people: we shall mislead his Majesty into a belief that this Convention is for the interest of the nation; and we shall wrong the subjects, by misrepresenting their sense. I believe, my Lords, the greatest friend that our

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minister has, will not affirm that the nation is not thoroughly and universally dissatisfied with this measure. I am far from being against our expressing the warmest sentiments of duty and affection to his Majesty. I know his paternal regard for every thing that concerns his subjects, and that he is as ready to redress their grievances, as they are to lay them before him. We have repeated assurances, from his own mouth, that he is sensibly concerned for the hardships they suffer by the injustice of the Spaniards. And, my Lords, if we should, by an ill-timed Address, tell him that they are removed by this Convention, we thereby pay a compliment to the throne, that may be fatal both to ourselves and to posterity.

I think, my Lords, I have made it appear that this Convention is destructive and dishonourable to this kingdom, and so far from healing the yet bleeding wounds which our commerce has received, that it lays it open to greater insults, and exposes the persons of our sailors to, if possible, still greater barbarities. Can we congratulate the crown for bringing the demands of its subjects to a final adjustment, when the sum stipulated for their relief amounts not to the value of the fourth part of what they have lost? When the payment too of that poor pittance is precarious? Can we say that a foundation is laid for accomplishing the great and desirable ends of obtaining future security, and preserving the peace between the two nations, when it is evident, beyond all contradiction, that future security is so far from being obtained, or a foundation for it laid, that no other foundation is laid, but for a claim absolutely and irretrievably to ruin all our colonies, all our interests, all our commerce in these parts? This may, indeed, be said to preserve peace betwixt the two nations, because it will disable us from ever being in a condition to make war.

In short, my Lords, our all may be said now to be at stake. Upon your lordships behaviour to-day depends the fate of the British nation. I do not often speak in the learned languages: but I am afraid, my Lords, the prophetic phrase, which I once heard a most learned lord pronounce, '*Venit summa Dies*,' will now be verified. This nation has, my Lords, hitherto maintained her independency, by maintaining her commerce; but if either is weakened, the other must fall. It is by her commerce, my Lords, that she has been hitherto enabled to stand her ground against all the open and secret attacks of the enemies to her religion, liberties, and constitution. It is from commerce, my Lords, that I behold your lordships within these walls, a free, an independent assembly; but should any considerations influence your lordships to give so fatal a wound to the interest and honour of this nation, as your agreeing to this Address, it is the last time I shall have occasion to trouble this House. For, my Lords, if we are to meet only to give a sanction to measures that overthrow all our rights, I should look upon it as a misfortune for me to be either accessary or witness to such a compliance. I will not only repeat what the merchants told your lordships, 'That their Trade is ruined:' I will go farther, I will say, The nobility is ruined, the whole nation is undone. For I can call this treaty nothing else but a mortgage of your honour, a surrender of your liberties. I therefore hope that your lordships will assume that character which dignifies this House: that you will be the impartial, the uninfluenced advisers of his Majesty on this great and decisive affair. And that, if you present any Address on this occasion, it may be such as will speak the sentiments of every disinterested man in the kingdom, and a firmness not to be shaken by any confederacy whatever. But, my Lords, what reason is there to fear that France, or any other nation, will abet Spain in her unwarrantable claim of dominion in the American sea, or her unreasonable interruption of commerce? It is commerce, my Lords, which enriches France; it is commerce, which supports the French; from that fountain flow all their wealth, strength and glory. Can we therefore imagine that any nation, whose interests have so close a dependence upon a free and uninterrupted navigation, will enter into any measures, in conjunction with Spain, to oppose those rights of another people, which would so nearly, so sensibly affect themselves? Upon these and many other considerations, which I have no occasion to trouble your lordships with the repetition of, I will pay the last duty to my country, and put my negative upon this question.

The Bishop of *Salisbury*:*

My Lords; it may seem a very bold undertaking, after what has fallen from

* Dr. Benjamin Hoadley: see vol. 7, p. 571 and vol. 8, p. 847.

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the noble lord who was last up, to attempt to speak in favour of the Convention. The noble lord, who has improved his great natural talents by long experience and observation, has given so many reasons, and with such strength, against this measure, that nothing but an entire conviction of its being for the honour and interest of this nation could have induced me to trouble your lordships with any thing by way of reply to what his lordship has advanced. But, my Lords, when I consider, that there is no mind so disinterested, no judgment so sound, as not, on certain occasions, to be susceptible of prejudice, and a wrong bias, I think it my duty to lay before you my reasons why I approve of this Address. And this I am inclined the rather to do, because the noble lord has not, to my apprehension, spoke to what confessedly ought to be the foundation of all treaties, I mean the justice and equity of the thing, abstracted from all other considerations. If, my Lords, I shall make it appear to your lordships satisfaction, that this Convention is not only founded on both, but is agreeable to the truest maxims of policy, I know the noble lord's candour is such, that he will readily agree to this motion. On the other hand, my Lords, if any lord shall answer what I have to say to the satisfaction of this House, if it shall be evinced, that this Convention deserves all the hard names the noble lord has bestowed on it, I shall be very ready to own myself under the power of prejudice, and to agree to any censure your lordships shall think fit to pass upon it.

But, my Lords, before I enter into the merits of the Convention itself, give me leave to say somewhat with regard to what is properly the subject of this debate. And first, my Lords, I must observe, that there cannot be any danger, as the noble lord apprehends, in approving of this Address, even though we should disapprove of the Convention. For, what do your lordships say in the Address? You thank his Majesty for laying this Convention before this House. My Lords, this has been the language of this House, ever since it was a House, as often as the Crown has thought fit to communicate to it any treaty, or any act of the prerogative: therefore, I am sure, no exception can be taken at this clause. We next express our just sense of the royal care in bringing the demands of the British subjects to a final judgment, and procuring an express stipulation for a speedy payment. My Lords, I believe no body pretends to deny this has been done, and I believe it will be as little disputed, that this is the proper issue to which the demands of our merchants ought to have been brought. We then thank his Majesty for laying a foundation for accomplishing the great and desirable end of obtaining future security: and, my Lords, notwithstanding all that the noble lord, who spoke last, has advanced on this head, I do not think he has said one word, which can prove that this Convention has not laid such a foundation. The Convention plainly stipulates, that the treaties now in force betwixt the two Crowns, shall serve as a direction for the plenipotentiaries. If these treaties are not a direction, my Lords, I should be glad to know by what other rule our plenipotentiaries could act, or what better foundation could be laid. I am sure your lordships, upon them, built the Resolutions you came to upon this subject, and we never yet heard of any other security we could claim for our rights of navigation and commerce, but treaties. Therefore, my Lords, I think there can be no matter of objection to our agreeing to this part of the Address.

But, my Lords, the next paragraph, in my opinion, contains a full answer to all that has fallen from the noble lord who spoke last, with regard to our future security. His lordship insisted, that, in this Convention, your rights of navigation ought to have been expressly secured against all violation in time to come. My Lords, let us see how that matter stands. The Spaniards and we have differences; we fit out a fleet to give strength to our negociations; and they offer to treat. But our differences are so many, and the cases so intricate, that the definitive stroke must be a work of time. However, they soon agree to a preliminary, in which they acknowledge the validity of those treaties, by virtue of which we claim our right not to be interrupted in our commerce. This, my Lords, is the plain and undeniable fact. But what follows? The preliminary comes to be considered in this House, and the noble lord objects to it, because it is not a definitive treaty. No, my Lords; but it ties the ministry down from making any treaty in consequence of this preliminary, but such a treaty as must effectually secure you against all the encroachments you have hitherto complained of. You tell his Majesty's ministers, by this Address,

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that you are not to be satisfied with any treaty, in which "proper provision shall not be made for Redress of the Grievances so justly complained of, and particularly that the freedom of navigation and commerce in the American Seas may be effectually secured to his British subjects, that they may enjoy unmolested," pray mark, my Lords, "their undoubted right of navigating and carrying on trade and commerce, from one part of his Majesty's dominions to another, without being liable to be stopped, visited or searched on the open seas, or any other violation or infraction of the said treaties."

Can words be stronger than these, my Lords, to signify your lordships' zeal for having the rights of this nation put out of all question, and beyond all violation? They contain almost the very words of your lordships' resolutions, and the very thing which the noble lord, who spoke last, has been pleading for: so that the noble lord's arguments could not be against our agreeing to this Address, but against our ministry, who have not performed impossibilities in making a definitive, instead of a preliminary treaty, and in not working miracles, by changing the natural phlegm of the people they were to treat with, into all the vivacity and dispatch which the impatience of our people at home requires. There is no body, I am sure, knows better than the noble lord does, that, if you treat with a people, you are to treat with them according to their predominant genius and disposition; you are to yield to their humours, that you may thereby gain a great deal to your own interest. And it is well known my Lords, that the Spaniards are a people who will give up a point of interest, before they will give up a point of form. Therefore, as you preferred peace, if it could be had upon reasonable terms, and as every thinking man in the kingdom was, I believe, sensible that a war with Spain was to be avoided, if we could do it consistently with our honour; I do not think that our ministry could have answered to this House, and to the nation, if they had acted any otherwise than they have done.

Having said thus much with regard to the Address, I come now, my Lords, to speak to what I proposed, the nature of the Rights for which we contend, as founded on reason. My Lords, I am very sensible, that the Spaniards have been guilty of gross violations of treaties, and give me leave to say, that by this Convention they appear to be sensible of it themselves. Therefore, by what I have to say upon this head, I do not in the least intend to justify them in their violences. Nor, my Lords, do I intend in the least to weaken our right to an uninterrupted exercise of our trade and navigation on the American Seas. I hope, my Lords, that our ministry will obtain as full an acknowledgment of them all, as the best friend of this nation wishes. All my intention is to prevent, as much as any thing I can say can prevent it, the mistakes which may otherwise arise about the Search and Visit, from which we plead an exemption; and the rather, because the noble lord, in what he said formerly, and on this occasion, has, I think, pleaded for an exemption which we cannot claim, either by treaties, by the law of nations, or by the practice of nations.

By the first general treaty, my Lords, which we have with Spain, it is stipulated, That when a ship of war belonging to the one nation shall meet with a trading vessel belonging to the other, that ship of war may visit such a vessel, and if prohibited goods are found on board, they are confiscable. This treaty, my Lords, extends to the mutual possessions of both crowns in America, as well as in Europe; and there being no restriction to prevent this visit taking place in America, as well as in Europe, it was plainly the intention of the contracting powers, that no such exemption should be pleaded by either, as the noble lord contends for. The next treaty was made three years, or I believe, not above two years, after, and was restricted to America alone. And, my Lords, this last treaty confirms, in the very first Article, all the stipulations of the preceding one, which it expressly mentions. The mutual prohibition of trade is, by the eighth Article of this treaty, repeated, though not more effectually stipulated, than it was by the preceding one; but this only proves, that the contracting powers looked upon that prohibition, as the great basis upon which all their negociations were to be founded: for we find, that the treaty of Utrecht mentions the sole possession of the Spanish Indies remaining to that crown, as the principal consideration which was to be regarded, But, my Lords, what does this prove? Does it prove, as the noble lord contends for, that our ships can only be visited in their ports and harbours? My Lords, give me leave to say, that if treaties are wrested in this manner, there is not a treaty subsisting betwixt us and any power in Europe, which may not

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be construed to purposes that destroy the very end for which it was made. By all the treaties in force betwixt us and the Spaniards, the advantages arising from the trade with their settlements in America are reserved to them; this is undeniable; but, according to the noble lord, these very treaties admit of a construction that puts it in our power to run away with all that trade, for it seems that a mutual prohibition of trade, is the very thing by which we defeat all the intention of such a prohibition, and make the property of each crown common to the other. I speak, my Lords, of the property of England as well as of Spain, because, as the prohibition is mutual, the advantages arising from that prohibition ought likewise to be mutual. Now, my Lords, give me leave to suggest to your lordships in what manner we should reason, and how we should behave, if our share of property in America were larger than that of Spain, and if that of Spain were no larger than ours is at present. Should we, my Lords, suffer the very means that are agreed upon as the proper method of securing that property, to be the very means of its being rendered quite useless to us? Consider, my Lords, how the case stands at present: we have no trade, we say, with the Spanish settlements in America, therefore there can exist no object of search. Therefore, let our ships be seen hovering about their coasts for days, nay weeks together, they are not to ask any questions; as long as we do not go into their ports and harbours, they cannot seize or search, or so much as visit, provided we keep at sea, though but a pistol-shot from their shores. Would we, my Lords, suffer any people in the world to brave us in that manner? Should they but pretend to do it, is there a man in this nation who would not exclaim, who would not call loudly out for war to chastise their injustice, and accuse our ministry of cowardice, should they refuse it? To bring this case, my Lords, still nearer home to our own: let us consider in what manner we ourselves think fit to treat all the other nations of Europe, whom we suspect to be concerned in those practices of which the Spaniards now accuse us. It is true, they are obliged to give us the honour of the flag, but this is a right we do not claim by the law of nations, but by positive treaties. But, my Lords, in what manner do we act when our ships meet with any foreign vessel that is hovering within two leagues of our coast? Why, my Lords, we do the very same thing by them as the Spaniards do by us in like circumstances; we stop them, we examine if they have not been concerned in a clandestine trade, in a trade that is, or may be, detrimental to the revenues of this nation: and, my Lords, if we find that they have, the prohibited commodities which they are laden with are seizable and confiscable. By a late law, my Lords, the cases liable to such confiscation are regulated in so strict a manner, that, had the Spaniards proceeded against our American ships, in like circumstances, with the same severity, we must have heard of a great many more captures than we have. That law enacts, That if a ship shall be found within two leagues of our coast, not proceeding on her voyage with the first opportunity, and if such ship shall have on board six pound weight of tea, or any spirits in casks under sixty gallons each, except the seamen's allowance, which is two gallons a man, such commodities become lawful prize.

There is, my Lords, one circumstance in our commerce, that, I think, puts us entirely on the same foot with the Spaniards in America; and that is, the case of our wool trade. Our wool we reckon to be a staple commodity of this nation. The exportation of it, on any pretence whatsoever, is prohibited under the severest penalties. The same may be said of our tin, and our fullers-earth. And, my Lords, we pretend specifically to know these commodities wherever they are found. Suppose, my Lords, one of our ships of war should meet with a French ship laden with our wool, tin, and fullers-earth, sailing from England: if these commodities should be found in such a ship, and if our captains should seize them, would the French think they had a right to reclaim such commodities, because they were not taken within the precise bounds marked out by our acts of parliament? A ship of war, my Lords, has a right to visit the trading ships of another nation in any latitude, because they are to take care that no ship is concerned in any trade, or in any voyage, that may be detrimental to the subjects, or the revenue of the crown they serve; nay, my Lords, a ship of war, when she has a proof, or even a strong presumption, that a trading vessel of another nation has any of our prohibited commodities on board, has a right not only to visit, but to search such ships. My Lords, the Spaniards in their settlements in America, have the very

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same regulation with us in this respect. They have certain commodities there which may be called staple, and which, they say, are specifically different from the same commodities in any other part of the world. Of this kind is their cocoa-nut, their logwood, and their silver coin or plate. It is true, that we pretend we have logwood and cocoa-nuts growing in our plantations. But then the Spaniards tell us, and I believe very justly too, that there is as great a difference betwixt our cocoa-nuts and theirs, and our logwood and theirs, as there is betwixt our wool and that of any other nation. Therefore, say they, why will you deprive us of a right which you yourselves exercise in as extensive a manner as we pretend to? We (continue they) have still a better right to visit ships on the American seas, than you have of visiting on the European. We pretend only to visit on the seas that wash our own coasts: and the intention of that visit is only to secure to ourselves those advantages that are stipulated by treaty, which you yourselves do not dispute. I know, my Lords, that the Spaniards have abused and extended this claim to unwarrantable excesses; and, my Lords, if I had reason to think that these abuses are countenanced by the court of Spain, I should very willingly give my voice for chastising them in an exemplary manner. But, my Lords, if we consider that the guarda costas, by which these abuses were committed, are not properly ships belonging to the crown of Spain; if we consider, that it is impossible for any crown to prevent abuses of that kind, and that they in effect disavow them, I think, they ought to have no influence upon our present deliberation.

Upon the whole, my Lords, it is evident that there are certain points of commerce, and certain rights, which we cannot deny to Spain, without acting with the greatest inconsistency and injustice on our part. We cannot deny, that they have a right to employ their utmost endeavours in preventing a clandestine trade betwixt their own colonies and any other nation in the world but themselves: that they have a right to seize upon and confiscate all ships that are found carrying on such a trade, and are sole judges of all cases betwixt the captors and the owners of such a ship.

We, on the other hand, my Lords, with great justice, insist on a free navigation betwixt one part of his Majesty's dominions and another. We insist that this freedom of navigation be not interrupted by our ships being stopped or searched on the open seas; and this is a right which the Spaniards have never yet expressly denied us. So that, my Lords, when we consider the matter cooly and without prejudice, there is no difference betwixt us about the general rights, which each claims, but about the particular manner in which these rights are exercised. We tell the Spaniards, that though they have a right to prevent all clandestine trade in their own settlements, yet, that they ought not to exercise that right in such a manner as to interrupt the freedom of our navigation. The Spaniards, on their part, tell us, that we are not to abuse that freedom of navigation, which they acknowledge we have a right to, by exercising it in such a manner as to give our merchants an opportunity of trading with their colonies. This, my Lords, is the plain state of the points in difference betwixt us and Spain. Neither disputes the rights of the other, but each disputes the exercise of these rights. Therefore, my Lords, all that remains to be done by the negociators on both sides, is, to reconcile the exercise of our rights of navigation, to the enjoyment of their rights, to prevent a clandestine trade with their settlements. This, my Lords, is what cannot be done by canvassing the words of any treaty, because no treaties have provided against all abuses of this kind. It can therefore be done only in the method proposed by this very Convention, by appointing plenipotentiaries on each side, who are to meet and to settle the proper methods of regulating, or, if you will, of removing, all the grievances subsisting on either side.

This, my Lords, cannot be done, but by each side receding a little from the rigour of its demands, and by our considering the intention as well as the words of treaties. There is no treaty, my Lords, can be devised by the wit of man, so as to comprehend and provide for all the cases that may arise from the abuses of it, if either of the parties concerned should refuse to submit to a reasonable explanation of its true intention and meaning, and justify their abuses of it from their not being literally provided against. The treaty of the 23d of king Charles 2, whereon we found our rights to a free exercise of navigation, provides, that we may sail from one part of his Majesty's dominions to another; but it does not provide that, in case our ships

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shall be found hovering within gun-shot of the Spanish coasts, the Spaniards must not stop and search these ships, though they have the clearest and most undeniable proofs of their carrying on an illicit trade. But, my Lords, because no such provision is made, would it be reasonable in us to insist upon it, that it is a breach of that treaty, for them to seize any ship in such circumstances? On the other hand, my Lords, should the Spaniards, because a prohibition of trade with their colonies is stipulated by that treaty, under the colour of preventing an illicit trade, interrupt our freedom of navigation on the open seas, I think we should be warranted by all laws divine and human, to bring them to a severe account. But, my Lords, if both sides, without justifying these excesses, shall have recourse to the original meaning of the treaty, and take the pains to examine into the proper methods of preventing them, as is proposed by this Convention, I am persuaded that each party will have reason to be satisfied.

The noble lord, who spoke last, took great pains to prove that the second Article of this Convention is inconsistent with the resolutions your lordships came to, the last session, on this head, But, my Lords, if I understood your lordships intentions in coming to these Resolutions, you did not intend them as instructions to his Majesty's ministers to justify all the abuses that may be introduced into that commerce. You found that a free navigation in these seas was the undoubted right of the subjects of Great Britain; but you did not declare that, if the subjects of Great Britain, in consequence of this right, should carry on, nay, force a trade with the Spanish settlements, the treaties betwixt the two crowns authorized such a trade, and that our minister should immediately declare war, if the Spaniards refused to acknowledge such a trade to be lawful. Unless your lordships did this, the Convention and your lordships Resolutions are exactly correspondent to one another, since the treaties upon which your resolutions were formed, are therein acknowledged, and laid down as the ground-work upon which our plenipotentiaries are to proceed.

My Lords, I should not have ventured upon these unpopular, but certain truths, did I not know that I speak in an assembly that has been always eminent for a strict regard to justice, whomsoever it may affect. What I have said, my Lords, I am sure, if rightly considered, can never injure any of the rights of this nation, far less can it justify any of the unwarrantable claims or practices of the Spaniards. Let our rights of navigation remain inviolate, let the commerce of this kingdom extend, and her interests prosper; but, my Lords, do not let us endeavour to advance these interests by means that justice cannot warrant, and prostitute the faith of this nation to gratify a mistaken notion of her honour. We never can vindicate her honour so effectually, as by maintaining the faith of treaties, by insisting upon nothing that is not strictly warranted by them, and by our readiness to submit every doubtful point to a fair and an amicable discussion. It is no sign of true courage, my Lords, for us to tell any people that we know we are in the right, and if they will not yield to us, they must fight us. If we consult history, my Lords, we shall find that success very seldom attends any people, who set themselves up for the bullies of mankind. The reason is plain: all nations are against such a people, and if the fear of their power should hinder them awhile from acting openly against them, they never fail secretly of taking all advantages to humble them. The Romans themselves, my Lords, though their power was very great, yet, even when they were in the height of their glory, never refused to hearken to reason; and we find them often submitting to treat, where, had they entered into war, they had been sure to conquer. If this maxim, my Lords, was a good one amongst a people who maintained themselves in their conquests by arms, much more ought it to be cherished by us, who subsist by trade. Trade, my Lords, may be ruined even by a successful war, and recovered by an indifferent peace. I would not be understood, my Lords, that we are to give up any of our just rights, or that we are to sue to the Spaniards for peace: no, my Lords, this very Convention is sufficient proof, that we treat with them on an equal, nay, a superior footing; and if a definitive treaty shall be concluded in consequence of this preliminary one, we may justly say, that we have given peace, and not received it. As a proof of this, my Lords, let us consider the behaviour of the Spaniards some time ago, compared with what it is at present: and whoever does this, my Lords, will find that they have yielded up many points, and those material ones, and we have not given up one.

This, my Lords, has not been attempted

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to be denied by the noble lord himself, who spoke last; and I believe every considering man of this nation would have blamed the ministry, had they plunged the nation into a war without any necessity. But, my Lords, it has been the fate of all ministers, that ever served this nation, that, let their measures be ever so just, and their zeal ever so disinterested, a party has been always found amongst ourselves, to accuse them of wickedness or weakness. They, who are resolved to find fault, right or wrong, will never want pretences. I, my Lords, have lived long enough to see measures quite opposite to one another approved of by the same party. I have heard the ministry accused of rashness by those in the opposition for entering into a war with Spain. I hear them now accused of pusillanimity for endeavouring to preserve a peace with her, and I may, perhaps, live long enough yet to see this Convention as universally applauded, as it is now industriously decried. They in the opposition, my Lords, have many advantages, without doors, over those in the ministry. They have the happiness of being looked upon by the people as advocates for their rights. This gives great weight to all they say or print. They likewise never fail to cover all their designs with a word that is dear to every free-born people, Liberty. This, my Lords, gives them a fine field for declamation; and there is nothing so absurd, or so ridiculous, that will not beget a popular prejudice in its favour, if they have art enough to colour it with that specious appearance. For this reason, my Lords, the cry without doors has very little influence with me, any farther than to give me a sensible pleasure, in reflecting that all our liberties are safe, since even the abuse of them passes unpunished. My Lords, there is nothing can be a greater proof that the dangers to which our liberties are said to be exposed, are groundless, than the very freedom with which people suggest that we are in any such danger. If liberty were in danger, my Lords, no man durst be so hardy as to tell the world that it is so; and if this Convention were so disgraceful to this nation, as some pretend, our ministry would have made a farther stretch of their power; they would have rendered it unsafe for any party to have censured their conduct with so much freedom. Former ministers, my Lords, have acted in this manner; even good ministers have proceeded to severities under half the provocation the present administration has met with. But, my Lords, we have nothing of that kind to fear now; his Majesty submits the conduct of his ministers to your examination, their measures must stand or fall, as you approve or censure.

I would not have said so much, my Lords, upon a subject that has no immediate relation to this question, had not the noble lord who spoke last, seemed to think that our agreeing to this Address, an Address of duty, my Lords, to his Majesty, would give a fatal blow to the liberty of this nation, and render it unnecessary for any lord, hereafter, to attend the duties of this House. I shall, therefore, trouble your lordships no farther, than to add a few observations on what fell from the noble lord, on the other Articles of this Convention.

His lordship thought it extremely unreasonable, that this Convention did not provide an adequate reparation for all that our sailors have suffered in their persons from the Spaniards. I should have been extremely glad, my Lords, if such a reparation could have been obtained: and I believe this House would be obliged to his lordship, if he would take pains to point out in what manner such a satisfaction can be effected. It must first appear, that the parties who suffered, applied to the court of Spain for relief; that they prosecuted the authors of their suffering, and proved the facts they alledged, and that the government of Spain had approved of their conduct, and justified their barbarities; or it must appear, that these courts were not open to their relief, and that they were necessitated to apply to the government here. My Lords, I never heard of any instance of that kind; and though there had been any such instance, I doubt the Spaniards are not without complaints on their part too, of the injustice of our governors. Consider, my Lords, how long it is ago since our people in Jamaica used to go and force a trade with the Spanish settlements; how many acts of piracy were committed by our subjects against the Spaniards: nay, my Lords, these abuses proceeded so far, that whole fleets of pirates, for I can call them no better, avowedly invaded the property of Spain in these seas; they fished for wrecks, to which no subject of this nation could have any claim; and, notwithstanding express prohibitions from our court, committed every act of hostility. My Lords, it would have been unjust in the court of Spain, to have declared

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war against us for these practices, or to have demanded an adequate satisfaction from our crown. No ministry can undertake to deliver up the persons of such offenders, because they take care to keep out of the way; and it is as difficult to give an adequate satisfaction, for it is almost impossible to prove the damages, because, in such cases, one party is always sure to represent the losses greater, and the others less, than they really are. This, my Lords, is exactly the case betwixt Spain and us. We complain very justly of our losses, and they tell us that they will give us full satisfaction for those losses that we make appear; but that it is unreasonable to insist on full reparation for all the damages that our subjects have sustained by theirs; and that, too, without any other proof than the bare evidence of the sufferers themselves. This, my Lords, is all that we can in justice exact; and, I believe, is more than ever was granted before in any such case. Besides, my Lords, if we consider the thing impartially, we shall find that we have no reason to complain; for, as the noble lord who spoke first in this debate, observed, their demands were much greater than the sum stipulated for their satisfaction; and we are not obliged, by this Convention, to pay them the fourth part. As to the reasons advanced by the noble lord, against our making them any satisfaction at all for the ships taken in the Mediterranean, I think they are such as our commissaries could not properly judge of, because they were to act by treaties and positive stipulations, and to have no regard to particular incidents. Now, my Lords, as we are obliged by intermediate treaty, to give them satisfaction for these ships, if they were not actually delivered up, and, as it is evident they never were, our minister there had nothing to do but to consider how to make the best bargain he could. But, says the noble lords, it was owing to the Spaniards themselves, that the ships were not actually delivered to their commissaries. My Lords, I believe, if the ships had been worth the expence of carrying to Spain, they would not have refused them. But, my Lords, the truth of the matter is, that they were in so bad a condition, they were so miserably battered, and had been so ill taken care of, when in our possession, that they were unfit for all service, and therefore carried out of the harbour, and sunk in the sea. My Lords, it is very possible the Spaniards thought that we had industriously put them in such a condition, that they might be disabled from all future service. Whether this was the case or not, is of no importance in the present question; I shall only take the liberty to say, that 60,000*l.* is a cheap price for the remains of all the naval power of Spain. If the ships had been in any condition of being refitted, they might have been soon of greater detriment to this nation, than all that sum. I do not know what the present naval power of Spain is, but be it what it will, it has been all raised since the action in the Mediterranean, for in that action it was effectually ruined.

As to the other Articles of the Convention, my Lords, which the noble lord has objected to, I will be very free to own to your lordships, that I have not examined them with the same attention as his lordship has done; but I think his lordship's principal objection was, to our suffering the case of the ships sailing from Antigua, to be submitted to the determination of the plenipotentiaries. In answer to this, my Lords, I can only say, that if the case of this ship be as unexceptionable as his lordship seems to think it is, the provision made by the Convention, is sufficient to indemnify the owners. But, my Lords, it is very hard for us to pronounce, at this distance, what particular circumstances might have given rise to this stipulation. For though the Spaniards had most certainly no manner of right to seize any British ship in the latitude where that ship was seized, yet, my Lords, if, after the committing this unwarrantable act, they had full proofs from what appeared by the master's papers, and the ship's cargo, that this ship since she left England had been concerned in an illicit trade, as nobody here can venture to say she had not, will your lordships be of opinion that there did not arise from this, at least, some ground for a future discussion? My Lords, I do not assert that this is the fact, but it possibly may, and I think we ought not to form any sudden judgment of it, till we know the truth.

But whatever may be in this, it is certain that every wise ministry, my Lords, will give up a few points of less importance in order to secure the general interests; and in a negociation of this nature, many such points occur: but I believe the ministry has managed with as much caution, and with as great tenderness to the interests of our merchants, as any ministry ever did.

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To conclude, my Lords, I think this Address is but a bare acknowledgment of our duty and gratitude to his Majesty; if we agree to the motion, it will give a weight to our future negociations, and it never can be attended with any bad consequences, because the future security of this nation, the only thing that now remains to be settled, and the principal thing that the nation has all along desired, is expressly provided for in the words of the Address proposed: so that, my Lords, it is really a direction, a caution to the ministers, that none of our just rights shall be given up by any subsequent treaty. But, my Lords, if we should not agree to it, what have we to expect but that the enemies of the nation will unite upon our divisions? They will take courage, my Lords, from our animosities: therefore, my Lords, I am heartily for our agreeing to the motion.

The Duke of *Argyle*:

My Lords; as I neither speak from pamphlets nor papers, I cannot precisely tell your Lordships how long I shall trouble you on this occasion. It is an affair of as great importance, I will venture to say, as ever came before this House. I have, my Lords employed a great deal of time in endeavouring to form a right judgment of it. I have examined it without prejudice, I have endeavoured to find something in it that may be justified, I have viewed it, my Lords, in all the best lights it was capable of; but still, my Lords, the more I consider, the more I view it, the more disgraceful, the more deformed, does this Convention appear.

I have known, my Lords, I have read of measures of this kind, that were, indeed, generally disliked by the people, and were disadvantageous to the nation; but still, my Lords, the ministers who carried on and concluded such measures, had something to say in their justification. The weakness of the nation, the conveniency of trade, the strength of our neighbours, or some consideration of that kind, was always pleaded as an excuse. And sometimes, though a treaty was in the main disagreeable, or dishonourable to the nation, yet there were certain particular clauses, some advantages stipulated, which, if they did not balance, served at least to excuse the rest. But, my Lords, this Convention is not only disagreeable to every body without doors, but it does not contain one article that can be wrested to have so much as a favourable aspect for this nation. To what, my Lords, can this be owing? Is it owing to the weakness of the nation? Not at all; this nation is not weak; she has strength sufficient to crush that power that crushes her. If she is poor, my Lords, the government feels none of it; for our ministers are as largely supplied with treasure as those ministers were, under whom this nation made the power that now insults us to tremble. Our troops, my Lords, are more numerous, better cloathed than those troops were, who once conquered this insolent neighbour, and filled her throne with a monarch of our own making. I see many lords here, who I am sure, remember these glorious times; and if, my Lords, at that time any one had ventured to foretel that this nation would soon be reduced to the necessity of negociating, for the space of eighteen or twenty years, to obtain such a treaty as this is, was there a man in the whole nation that would have believed him?

Have our ministry, my Lords, aught to plead in favour of this measure, because it is for the convenience of trade? My Lords, every body, who understands what trade is, knows, that if this Convention is approved of by Parliament, our trade must be irretrievably ruined. Can it be pleaded, my Lords, that our enemies are so strong that we ought, in policy, to yield a little to their humours? No, our enemies are weak, they are strong only in our fears. We, my Lords, are masters of that element whereon the cause must be decided; and let all our enemies, either professed or secret, nay, let all the neutral powers in Europe unite their naval force, we have a fleet now at sea that is able to beat them all. But, my Lords, do we behave as if we had any such superiority? Have we so much as asserted the honour of the British Flag? Have we not tamely given it up, given it up without the least reason, so far as appears to the world? What the reasons of our ministers may be, my Lords, for this pusillanimity, I am entirely ignorant; and as I am ignorant, I am innocent: for, my Lords, though I am a privy counsellor, I am as unacquainted with the secrets of the government as any private gentleman who hears me.

I remember, my Lords, a very good saying of a noble lord, who once sat in this House, it was the late lord Peterborough: when he was asked by a friend, one day, his opinion of a certain measure; says my lord, in some surprize, 'This is

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the first time I ever heard of it.' 'Impossible,' says the other, 'why you are a privy counsellor.' 'So am I,' replies his lordship, 'and there is a cabinet counsellor coming up to us just now; if you ask the same question of him, he will perhaps hold his peace, and then you will think he is in the secret; but if he opens once his mouth about it, you will find he knows as little of it as I do.' My Lords, it is not being in privy council, or in cabinet council, one must be in the minister's council to know the true motives of our late proceedings. For my own part, my Lords, I can only guess at them, but I have disapproved of them these eighteen years; I have disapproved of them in public, in private, and in all companies. Therefore, my Lords, what I speak upon this occasion, I speak it as a citizen of the world, and not as a privy counsellor. I speak the language of an honest and unprejudiced heart, and what I can answer for to my king, my country, and my God.

So far, my Lords, as I can judge from the tenor of our late behaviour, our dread of France has been the spring of all our weak and ruinous measures. To this dread, my Lords, we have sacrificed the most distinguishing honours of this nation. This dread of France, my Lords, has changed every maxim of right government among us. There is no measure for the advantage of this nation that has been set on foot for these many years, to which she has not given a negative; there is no measure so much to our detriment, into which she has not led us. Your lordships may remember, for it happened but a few years ago, that a French ship came into one of our harbours with all her sails up, and her pendants flying; and an English officer, who was but a lieutenant of one of our men of war, fired at her to make her salute his Majesty's ship. Your lordships, I am sure, have not forgot what was the consequence: the lieutenant, for barely doing his duty, and which if he had not done, he must have been broke, was discharged the service. It is true, my Lords, he was afterwards preferred, but not before we, in order to gratify that haughty court, had submitted to the infamy of breaking him.

Here, my Lords, was an instance wherein Great-Britain gave up the point of which she always has been, and always ought to be the most jealous; I mean the honour of her Flag: and not only so, my Lords, but punished a brave officer for doing his duty in our own harbour. He, my Lords, had no discretionary power, he acted in absence of his captain, he acted by sea-rules; and yet these rules were broken through in order to pacify that court. Why, my Lords, should our ministers shew so much complaisance to other nations, and bear so little affection to their own?

But, my Lords, it is not punctilio and form only, that we give up to France; I am afraid we sacrifice more substantial points to please her. I am afraid, my Lords, the Convention is a French measure. For I can never be persuaded that our fear of aught, that can possibly happen to us from Spain, could induce us to agree to this thing, you call a Convention. It is the interest of France, that our navigation and commerce should be ruined; we are the only people in the world, whom they have reason to be apprehensive of in America; and every advantage that Spain gains in point of commerce, is gained for her. Therefore, my Lords, we are not at all to be surprized, if she takes great pains to bring about a measure of this kind. But, my Lords, they looked upon their work as but half done, when this measure was concluded; it must be ratified too, in order to put the Parliament under greater difficulties in censuring it. Accordingly, because it seems the slowness of the Spaniards could not be brought to sign it time enough to get it ratified before the meeting of Parliament, the session was put off for fourteen days. This brings his Majesty's name and authority into the question; for they thought that a great many might be dissatisfied with a bad treaty concluded by the minister, who would put up with it, if confirmed by the King. But, my Lords, the treaty was of the minister's making, and if ministers make bad treaties, they should answer for them. Our law has most excellently established it as a maxim, That the King can do no wrong. The reason of this, my Lords, is plain, because the constitution has provided a proper council, who shall advise with the King, as to the executive part of government: and it is, my Lords, always to be supposed that the persons, who compose that council, are well skilled in the laws, the constitution, and the interests of their country. Therefore, my Lords, if any wrong is done in the government, it is presumed to be done by those who advise the King. It is true, the nature of our constitution requires, that

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public acts should be issued out in his Majesty's name; but, for all that, my Lords, he is not the author of them. Therefore the publication of this treaty in his name ought not to indemnify the authors, or to make us swallow what we can never digest.

The approbation of this treaty is brought in by way of an Address of Thanks to the Crown, and is, it seems, no more than a compliment to his Majesty. A compliment for what, my Lords? For making this Convention? His Majesty did not make it, the ministry made it. This Address, therefore, will tell the world that we return thanks to the minister for this Convention, which gives up the security of our trade, and puts us in the power of our natural and hereditary enemies. Let who will approve of such a measure, I never will; I will die first.

The noble Lords, who have spoken for this Address, appear to have studied the point. It is no easy matter for one who speaks occasionally, to answer them. My Lords, I do not trouble myself about little niceties and distinctions; about a right and the exercise of a right. For what end do we enjoy a right, if we cannot exercise it? Do we pretend to hinder the Spaniards from searching our ships, when found in their ports or harbours, which is the utmost they can claim by treaty? My Lords, we do not. Do the Spaniards suffer us to exercise that our natural and undoubted right of sailing unmolested on the open seas? No, my Lords, they do not: so that the question is not about a right, or the manner in which a right is exercised, but betwixt an unreasonable claim, and an undoubted privilege, betwixt an oppressive usurpation, and a lawful title. There is, indeed, another part of the doctrine preached by the reverend prelate, which admits of a very wide difference, though his lordship has been pleased entirely to suppress it; and that is, the difference betwixt a Visit and a Search. Visiting a ship, my Lords, is, when a ship of any force accosts a trading ship of another nation, and sends five or six persons at most in a long boat, in order to visit her; that is to say, to enquire whence she is come, whither bound, what she has on board, and how long she has been at sea. To all these the master must give explicit answers. And if the captain of the visiting ship still doubts, he may call for his ship's papers, and bills of lading, but has no right to insist any further. If he does, my Lords, he commits an act of piracy. A search, on the other hand, is a rummaging the cargo with an intention to confiscate; and this, my Lords, is what no treaty betwixt Spain and us, subjects our ships to. This, my Lords, is what no nation in Europe will suffer from one another, and we ought, least of all, especially from the Spaniards. It is shameful that we have suffered it so long. If we suffer our seamen to be insulted or interrupted, we give up the honour of the nation, we give up all that formerly gave us success, conquest and glory.

People, my Lords, talk of Cromwell, that he was an usurper. I do not deny that; but he still had many valuable qualities, and wanted nothing but a lawful title to have made him one of the greatest men that ever governed this nation. He, my Lords, had one maxim from which he never deviated; and that was, never to suffer even the appearance of an insult upon this nation to pass unobserved. Notwithstanding, my Lords, his disputed title to the government, a formidable opposition at home, and powerful alliances against him abroad, he kept up the dignity of the sovereignty, and carried the reputation of the British flag to as great a height as ever it has been carried. He, my Lords, had to do with three powerful states, France, Holland, and Spain; each of them more powerful than they are now: But, my Lords, he never entered into any inglorious treaty, he never submitted to any ignominious terms.

He told them what he was resolved to have, and what he would do, if he had it not. This positive way of proceeding, my Lords, effected all the nation could desire, for we do not find in history, that any power was so bold as to slight his menaces; they knew him too well to take him for a bully; he never fitted out any armaments, either by sea or land, with which he did not strike some decisive stroke. I will tell you, my Lords, one instance: When the Spaniards fitted out a fleet to conquer an isle in the Mediterranean, for want of provisions of their own, they seized upon corn that belonged to a British subject, to the value of 30,000*l.* On our Consul's remonstrating against such a procedure, they clapped him in prison. What did Cromwell do upon this? Did he send plenipotentiaries, at a great expence to the nation, to examine into the nature of the complaints on both sides? Did he patch up a Convention for regulating the grievance? No; he ordered his Resident at that court

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to tell them in plain terms, that he gave them so many days to consider, if they would make him satisfaction (upon the terms, my Lords, which he himself prescribed) and if they did not in the time limited, that he would come with his squadron and demand it, upon their coasts, from the mouth of his cannon. This blunt speech had its desired effect; the Spaniards knew whom they had to deal with; therefore they did not treat, but submit.

Supposing, my Lords, we had acted with the same spirit, do not your lordships think it would have had the same effect? And why did we not act with the same spirit? We are more powerful now, than we were in the days of Cromwell. The Spaniards are weaker, and our provocations are much greater now, than they were at that time. What insults, what barbarities, what breaches of faith have not the Spaniards committed of late? They have plundered our merchants, they have destroyed our ships, they have murdered our sailors; nay, what is more insufferable, they have chained, they have tortured our countrymen: a method of punishment this nation has ever detested; a barbarity, which even our worst malefactors are free from, by undergoing a punishment in all respects more desirable, that is, death itself. My Lords, it will astonish posterity, that we have suffered all these indignities, while we have a fleet able to defy not only Spain and France, as I said before, but all the nations in Europe.

It is said, my Lords, that we may want other forces to carry on this war to advantage. It is very possible, we may; but has the parliament ever yet refused to comply with any demand of that kind, when land forces, my Lords, were necessary? I dare say, the parliament would allow 100,000 men, if there was occasion for them. But the misfortune is, my Lords, that the nation, I am afraid, will not be persuaded, even though these were raised, that we are in earnest: people will think that our land army will continue as unactive as our fleets have hitherto been: and that our raising forces before we shew that we dare to do ourselves justice, will but expose the nation to greater inconveniencies and enhance its expences.

Last year, a strong squadron was sent to the Mediterranean, under the command of a gentleman, against whom, I am sure, nobody can have any exception. I know him to be a brave officer, and that he has the interest of his country much at heart. But, my Lords, of what use are all these qualifications to the nation, if his guns are muzzled, if his hands are bound up by his instructions from the ministry? What service have the ships under his command performed to his country? What ends have the vast sums of money we have expended, served, if not to weaken us while we are inactive; so that we shall not be able to furnish the necessary expences when we shall come to action? What plea then, my Lords, can there be for not declaring war? Is it to avoid the profusion of money? money, my Lords, we daily expend to extravagant and useless purposes. Is it to avoid the profusion of blood? No: yet you have suffered your own sailors to be daily insulted and murdered. My Lords, it is time enough for us to shew our tenderness to Spain, when we have revenged the wounds given to the honour of Great Britain.

My Lords, as I did not propose, and as I find myself incapable, especially on this occasion, to speak in order to every thing that has been suggested in this debate, I shall take them just as they come into my mind. The differences betwixt Spain and us are not of such a nature as to affect only one set of men amongst us. It is not our West-India merchants, my Lords, alone, that must suffer, should we approve of this Convention. Give me leave to say, that there is not a merchant of whatever denomination in this kingdom, there is not a shop-keeper, there is not a house-keeper, there is not a tradesman, nay, there is not a landed gentleman in the kingdom, whom it will not affect. Consider, my Lords, that the balance of our trade to almost all other places in the world, except our own settlements, is against us. But a noble lord has, I think, demonstrated, that if we approve of this Convention, we leave our trade and settlements in the West-Indies, entirely to the mercy of Spain. What resource can we then have for supplying the nation with those necessaries of life, which we now import from our own settlements, and which, if they are ruined, we must have from other nations, in what manner, and upon what terms they please? Therefore, my Lords, it is no wonder, if all ranks, and all degrees of men turn their eyes upon your Lordships at this important juncture. If, I say, they look on their all as being at stake, if they have expressed some impatience under the apprehensions of its being given up, I do not wonder at it. The reverend prelate said,

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that the advocates for the opposition had great advantages over those for the ministry, by means of certain sounds and words. My Lords, I am afraid there is something, in this case, more than bare sounds and words. I am afraid the real things themselves are in danger, and that the liberties and interests of this nation must suffer, if your Lordships should approve of this measure. My Lords, I have formerly known the people spirited up by artful, or hot-headed men against the government, and I have known them commit very great excesses; but, my Lords, I always observed, that these excesses were committed by the very dregs of the people, who neither knew what they were about, nor what they wanted. I observe a quite different spirit at this time. The spirit of opposition that now prevails, my Lords, is among your cool-headed men, men of weight and interest in their several stations, who pay largely towards the support of the government, and therefore think it a hardship to suffer by any public measure. My Lords, though I had no manner of knowledge of the nature of this Convention, though I were quite ignorant of all the transactions that preceded it, yet this very circumstance would determine me to suspect if not oppose it. When I see men of figure in their way, crying out against it, when I see the greatest city in the kingdom petition against it, what should make them such zealous opposers, but their being persuaded that a peace, on the foot of this Convention, must be more destructive to their interests, than a vigorous war? Their interests, my Lords, lead them to desire peace, they must be considerable sufferers in a war, by their ships being taken, the increase of the taxes, and the stagnation of their trade: but still, my Lords, we see, that they look upon all these evils as more tolerable, than such a peace as this Convention must give them.

It is certain, my Lords, that the peace we have lately enjoyed is not very desirable; we have paid dearly for it; nay, I believe it has cost the nation more to make peace, than it would have done to have made war. But, says a noble lord, the Spaniards are very slow; give me leave to add, my Lords, they are very obstinate too. But why are we to pay for their slowness and obstinacy? Are we to fit out fleets, at a vast expence to the nation, only to quicken them to do, what equity, what the law of nations, and what positive treaties require them to do? But, my Lords, the worst is, that we have not even obtained that: we have only brought them to negociate, and to give us a treaty where not one of these considerations has been regarded. This, it seems, proceeds from their obstinacy; why, then, have they not been made to pay for their obstinacy? Why should we pay for it? If they had a mind to be obstinate again, and to refuse to fulfil even the terms of this poor treaty, are we to be again at the expence of 5 or 600,000*l.* only to bring them into good humour?

My Lords, when I first heard this Treaty read, I thought it set out with a very bad air: the preamble begins, 'Whereas differences have arisen'; it does not say, justly or unjustly. But what differences, my Lords? That word always implies a disagreement of opinion, betwixt two parties, with at least a shew of reason, and an appearance of equal provocation on each side. But, my Lords, is that the case betwixt us and Spain? Has she been able to justify her depredations, either by the law of nations, or tenor of treaties? No; the noble lord, and the reverend prelate who spoke so fully in her vindication, has not, I think, given us an instance of a legal capture of one ship, among all the numerous instances complained of, even admitting that they have a right to search in the manner the reverend prelate has pleaded for. I must therefore confess, I was very much surprized to hear a noble lord explain the preamble to this Treaty in the manner he did, as a proof of the willingness of the court of Spain to adjust all differences betwixt us and them, on an equal footing. Had we taken as many ships from the Spaniards, as they have done from us, I should have had no objection to this preamble; but, as it stands, it puts the two nations upon an equality of losses, though one has been the constant aggressor, the other the perpetual sufferer.

The other particulars of this Convention have been already so fully spoken to, that I think it unnecessary for me to add any thing more on those heads; but, my Lords, I cannot help taking notice of what happened just before the ratification of this Convention, when we find the court of Spain prescribing to us, and our plenipotentiary obeying a Spanish minister as he would have done a British one. The Spaniards, it seems could not be brought to any terms till the sitting of parliament,

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approached so near, that they were sure our ministry would give up every point of consequence, rather than not have a treaty of some kind or other, to lay before parliament, when it met. My Lords, delay in such an affair as this, is equal to a point blank refusal. Yet, we find, by the letters now upon your lordships' table, that, after a plan of accommodation was drawn up by our ministers, and every thing looked upon as finished, the Spanish minister very rightly apprehended, that they who would grant so much, would grant more. Upon which, a new claim is started, and they refuse to ratify what they had before agreed to, till Mr. Keene had, as minister of Great Britain, acknowledged a debt to be due, which, in that capacity, he had no power to acknowledge; and, in the capacity of agent for the South-Sea Company, he ought absolutely to have disclaimed. My Lords, this way of proceeding proves plainly, that he has scandalously betrayed the interest of that company. He has sacrificed them to the injustice and exorbitancy of the court of Spain; and put them upon the hard dilemma, either of paying a large sum on no pretence, or of being the bone of contention betwixt the two nations.

But, my Lords, that company has no greater reason to complain of her agent, than the nation has of her ministers. Compare the dates of the consul of Cadiz's letters, with the time of near a hundred Englishmen being barbarously imprisoned and chained in that city, for no other reason but because they were Englishmen; and you will find, my Lords, that these dates exactly agree. The inhumanity was taken notice of by all the world, except by that consul himself. He observes a profound silence on this head, though his letters wrote at that time are very full and explicit upon other points. My Lords, what can we think of this behaviour? that a British consul should, with the greatest unconcern imaginable, see his countrymen daily labouring under confinement, chains, and insults; Does not this imply that the Spanish ministers and ours understood one another? Does it not imply some underhand dealing, some secret collusion, in order to avoid a war?

I confess, my Lords, had I been a minister, I would not have given my advice to run precipitately into bloody measures; but I would have endeavoured to have taken more prudent steps, than what I am afraid have been followed. It is true, my Lords, that a war, if it can be avoided with honour, especially with Spain, is not for the interest of this nation; and that cautious proceedings are the best means of establishing his Majesty, and his royal family, on the throne of this kingdom: but, my Lords, though I am for caution, I am not for pusillanimity. That may bring the nation into contempt, and this nation never can be brought into contempt without weakening the royal authority. I know, that the fear of the Pretender has a mighty influence with a great many, who talk upon this subject. But, my Lords, I am of opinion, that our going on in the same measures we have done for some time past, will be playing the Pretender's game for him. I am sure his Majesty has the hearts of the people, and can command their hands too: but a perseverance in these measures will divide us among ourselves; and, my Lords, if we are divided, we must be weaker, and give the enemies of the present happy establishment a better chance of succeeding. For my own part, my Lords, I believe nobody doubts of my zeal for the continuance of the crown upon his Majesty's head, and his family; I have formerly strenuously asserted the rights of this family, and as I have done it on more than one occasion, it is the more unquestionable. But, my Lords, it is not my duty alone that begets this attachment; my inclination is as strong as my duty. The knowledge I have of his Majesty's personal virtues, makes it the happiness and glory of every subject to serve him. I know, that he is as strongly attached to the interests of his subjects, as any prince who ever sat upon the throne. But, my Lords, the best, the wisest, and most discerning princes, must see many of their most important affairs in the light their ministers represent them: if the ministers misrepresent them, they, my Lords, and not the prince, are to blame. Had not his present Majesty been misled in this particular, sure I am, that he would have vigorously asserted the rights and privileges of his people, as the greatest of his predecessors ever did. He, my Lords, would have imitated the example of that great prince, king Edward 3, to whom he may, in many other respects, be so justly compared. And now I have mentioned that great prince, I beg leave to suggest to your lordships, in what manner he would have behaved. The difficulties he had to struggle with, from a weak administration in his minority, were very great. The kingdom, my Lords, was then governed

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by a faction composed of a few favourites about the person of the queen-mother; who chose to buy a scandalous peace of the North Britons, a people, my Lords, that never abounded over-much in riches, and who were very glad to finger a little of the ready money of this nation. What did the king do, my Lords? Young as he was, he had the minion, the minister who advised that scandalous peace, seized; he had him tried, and hanged. Let us consult history further, my Lords; let us consider the behaviour of king Edward 4, in an instance of a similar nature. Did he bear with the injuries France offered to the nation? No; he had recourse to arms; and as his cause was just, his soldiers were victorious. The reign of queen Elizabeth, the most glorious perhaps in all the British annals, was always successful, because it was conducted by a wise and prudent administration. She neither governed by affection, nor by a minister; for though Burleigh was stiled prime minister, yet he was only so in name. He had, indeed, a greater share of business, and greater fatigue than any of the rest; but the affairs of the government were never left to him alone. Commissaries were always appointed, upon every urgent crisis of affairs; and the administration was composed of many, who, though they bore the utmost animosity against him in their private capacity, yet all united in the common cause; they laid aside all other considerations, when the interests of their mistress were concerned; when the honour of the nation was at stake. They strenuously entered into warlike measures, rather than suffer any insults; and as their cause was founded on equity, success attended their arms.

To conclude, I entirely concur with the noble lord, who first spoke against the address. If it be presented, the event will be dangerous, the consequence fatal. Many other instances I might produce from history to justify my assertions; but as I have already taken up too much of your time, I will only say—these sentiments proceed from an honest and impartial heart.

The *Lord Chancellor*:*

My Lords; the address now proposed to you, is so agreeable to the resolutions you came to last session of parliament, upon the depredations that had been committed by Spain; and it is so natural a consequence of the address you presented to his Majesty upon that occasion, and of the measures his Majesty has since taken in pursuance of that address, that when I first heard it proposed, I did not expect it would have met with the least opposition. By the resolutions you came to last session of parliament, you asserted the right which the people of this nation have to a free navigation in the open seas of America; and you declared, that many unjust seizures had been made, and great depredations committed, by the Spaniards, to the great loss and damage of the subjects of Great Britain trading to America, and in direct violation of the treaties subsisting between the two crowns. This was the sum of your resolutions, and in consequence of these resolutions, you addressed his Majesty to use his endeavours with his Catholic majesty, to obtain effectual relief for his injured subjects, and security for our navigation and commerce in time to come; and at the same time you assured his Majesty, that in case his royal and friendly instances should not prevail, you would effectually support his Majesty in taking such measures as honour and justice should render necessary.

From hence, my Lords, it appears to have been the opinion of this House last session of parliament, that we had then no occasion to come to an immediate rupture with Spain; but that his Majesty should first try what he could do by peaceable means for obtaining reparation for past injuries, and security against any such for the future. Accordingly his Majesty did, in pursuance of this advice from his parliament, renew his negociations with the court of Spain; and to give his negociations their proper weight, he fitted out such squadrons as were sufficient for protecting the trade, and vindicating the honour of this nation by force of arms, in case that court had refused, or unreasonably delayed hearkening to those friendly instances that were made to them by his Majesty.

This, my Lords, we now find has had the desired effect. From the preparations that were made here at home, and the squadrons that were fitted out, Spain saw that we were in earnest, that his Majesty was resolved not to be any longer trifled with, and therefore they began seriously to consider the consequences of an open rupture. These consequences they had reason to be afraid of, they were afraid

* The remainder of this important Debate is taken from the London Magazine.

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of them, and by their fears they were induced, I may say compelled, to give ear to the friendly instances that were made to them, and to acknowledge the injuries they had done, by promising to make as ample a satisfaction as we could reasonably insist on. I say, my Lords, as ample a satisfaction as we could reasonably insist on; for surely, if we expected satisfaction from them, it was but reasonable that we should allow them satisfaction for all the just claims they had upon us. According to this, which is certainly the just, and the only reasonable way of reckoning, in every case where there are mutual demands, the stipulated payment, which they have agreed to make in four months after the ratification of the treaty, is a full reparation for all the demands we had to make upon them, allowing a reasonable discount for prompt payment. For, even according to the account stated by our own commissaries, the claim of our merchants did not, at a moderate computation, amount to above 200,000*l.* and the claims they had upon us, were allowed to amount to at least 60,000*l.* which reduced the sum due by them to us to 140,000*l.* for the prompt payment of which, we have allowed them 45,000*l.* which is but a reasonable allowance, considering the delays we might have met with, if we had accepted of assignments upon his Catholic majesty's revenues in New Spain: Allowing therefore of this discount, it reduces the 140,000*l.* which is all we could pretend to be due, to the sum of 95,000*l.* which sum they have, by this Convention, expressly promised to pay here at London, within four months after the ratification: and that, without delaying the payment of the said sum, on account of any restitution that has been made, in consequence of his Catholic majesty's orders, of the whole, or any part of the value of the ships mentioned in the fourth article.

Thus, my Lords, we may see, that by this Convention his Majesty has obtained one of the chief things recommended to him by his parliament last session: and as this has been obtained without involving the nation in a war, we have the more reason to thank his Majesty for the tender regard he has had, not only for those of his subjects that have already suffered by the Spanish depredations, but for all his subjects; because it is certain they would all have greatly suffered, if he had rashly and unadvisedly involved the nation in a dangerous and expensive war. But with respect to our future security, as it depends upon disputes, which it was impossible to enquire into fully, and determine absolutely, without a very mature deliberation, therefore, from the very nature of the thing, we could not expect, nor could his Majesty with any show of reason insist upon its being explicitly provided for by a preliminary Convention; however, his Majesty has taken so great care of the future security of our navigation and commerce, that he has got the Spanish court to agree, by this Convention, to submit all the disputes that now subsist between the two nations, to the discussion of plenipotentiaries, to be named respectively by the two crowns; and, that no chicaning delays may be made use of on the part of Spain, it is expressly provided, that the plenipotentiaries so named shall begin their conferences six weeks after the exchange of the ratifications, and shall finish them within the space of eight months.

This was, in my opinion, my Lords, all that it was possible to do by a preliminary Convention, with regard to the other disputes that now subsist between us and Spain; but though the final determination of those disputes be deferred for a short time; though we have submitted them to the discussion of plenipotentiaries, yet by such delay and submission, we are so far from having acknowledged any of our undoubted rights to be disputable, as has been groundlessly insinuated, that the Spaniards have, in some measure, given up that right, which is the principal one in dispute between the two nations. They pretended to a right to search our ships in the seas of America, in order to see whether they had been concerned in an illicit trade, and to seize and confiscate ship and cargo, in case it appeared that they had been concerned in such a trade, by their having what they call contraband goods on board. They have by this Convention agreed to make good to us the damages we have sustained by their exercise of such a pretended right. They have agreed to pay us costs; and is not this a direct acknowledgment that they have been in the wrong? This is at least a tacit acknowledgment, that they now think they had no just claim to the right they have so long pretended to; and this, I think, is a certain sign, that by the definitive treaty, which is to be concluded in pursuance of this preliminary convention, they will make no scruple to give it up in the most express terms we can desire.

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But, my Lords, with regard to the present disputes between the Spaniards and us, I find people have generally fallen into a very great mistake, by not distinguishing properly between a right, and the enjoyment of that right. We have a right to a free navigation in the American seas, and to carry on what commerce we think fit between our own colonies and Great Britain, or between any one of our own colonies and another: This is a right which the Spaniards never pretended to dispute with us. On the other hand, they have a right to prevent the carrying on of any contraband trade with their settlements in America; which is a right we never pretended to dispute with them. The chief dispute between us, is about the enjoyment of our respective rights. They do not dispute our right to a free navigation in the American seas; but the question between us is, how we shall enjoy that right, so as not to prejudice their right to prevent a contraband trade's being carried on with their settlements in that part of the world: nor do we dispute their right to prevent such a contraband trade; but the question is, how they shall enjoy that right, so as not to prejudice our right to a free navigation. This is the chief dispute now subsisting between the two nations; this must be regulated before peace and friendship can be fully restored; and this could not be done in a short time, or by a preliminary Convention. The affair must be fully examined, and maturely considered, in order to contrive, and mutually settle such regulations as may not be prejudicial to either. For this reason it was referred by both to be enquired into, and regulated by plenipotentiaries: but what are these plenipotentiaries to regulate? Not the rights of either nation; but only the methods by which each nation is to enjoy its respective right for the future.

My Lords, if we would but consider our own case, I am persuaded we should look upon this as an affair not quite so easy to be settled as some people imagine. We pretend to a right, and we certainly have a right, to prevent any goods from being clandestinely run into this island, or into any of our dominions. We pretend to a right, and we certainly have a right, to prevent the exportation of our wool. On the other hand, the Dutch and French, and all other nations, have a right to sail with their ships along our coasts, and even through the British channel. As long as they give us the honour of the flag, and abstain from all clandestine and prohibited trade, we have no right to interrupt them; yet every one knows, that our guard ships and custom-house sloops often stop them in their voyage, in order to examine, whether they have been concerned in any clandestine trade, such as the exporting of wool, or running any prohibited uncustomed goods. Nay, we have gone so far as to make laws against ships that shall be found hovering within two leagues of our coast; and particularly, by a law passed but very lately, it is enacted, That, where any vessel coming from foreign parts, and having on board six pound of tea, or any foreign brandy, or other spirits, in casks under sixty gallons, except two gallons for each seaman, shall be found at anchor, or hovering within the limits of any ports of this kingdom, or within two leagues of the shore, and not proceeding on her voyage with the first opportunity, all such tea, foreign brandy, and spirits, together with the package, or the value thereof, shall be forfeited, and the same may be seized.

This, my Lords, I do not mention with a design to draw any parallel between our behaviour, and the behaviour of the Spaniards: we have exercised our right in such a manner, that no foreign nation has the least reason to say we have done them an injury, or to complain of the regulations we have made for the preservation and exercise of our right. On the contrary, the Spaniards have exercised the right they have to prevent a contraband trade with their settlements in America, in such a manner, that not only we, but every nation in Europe that has any trade in that part of the world, have just reason to complain of them, and to insist upon their altering the regulations they have made for the preservation of their right. Therefore, I say, I do not mention this in order to make a comparison between their conduct and ours; but I mention it to shew, that where a nation has a right of any kind, they have a power to make such regulations, even with regard to foreigners, as they think necessary for the preservation and exercise of that right, provided those regulations be not inconsistent with the law of nations, nor prejudicial to the rights or privileges of their neighbours. This is the principal dispute at present between Spain and us. We ought in justice to allow them to make such regulations, as may be necessary for preventing the carrying on of any contraband trade with

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their settlements in America; and on the other hand, they ought in justice to give up, and depart from any regulations they have made, if upon examination they be found contrary to the law of nations, or if by experience they have been found prejudicial to the undoubted rights and privileges of this nation. We have a right to a free navigation in the American seas; but we ought not to insist upon that navigation's being so very free and unconfined, as to render it impossible for the Spaniards to prevent an illicit trade with their settlements in that part of the world. We should look upon it as the height of injustice, if the French or Dutch should insist upon such an unlimited navigation along our coasts, and through the British channel, as would render it impossible for us to prevent the exportation of our wool, or the running of prohibited and uncustomed goods in upon us. If your lordships consider the affair in this light, I am convinced you will be all of my opinion: you will look upon it as an affair that could not be easily settled; and will therefore think, that the most his Majesty could do, was to have it referred to the plenipotentiaries, in order that they might settle such regulations between Spain and us, as might be effectual for the enjoyment of the right of each nation respectively, without hurting the right of the other; and at the same time you will see, that the word regulate was the only proper term upon this occasion, and that it does not mean an acknowledgment of any unjust right pretended to by Spain, nor a giving up of any of the undoubted rights of this nation, as some people have endeavoured to represent.

It has been proved at your bar, my Lords, and every man who considers the situation of our islands, and the Spanish islands in the West Indies, and the nature of the winds and tides in the American seas, must see, that the ships of both nations must often and necessarily sail within two leagues of the coasts of one another: our ships may even sometimes be obliged to hover upon their coasts; and it may, for what I know, be found absolutely necessary to allow the Spaniards a liberty, under proper regulations, to examine such of our merchant-ships, as they find hovering within a certain distance of any of their coasts in that part of the world. This liberty, I say, may, for what I know, be necessary, for enabling them to prevent an illicit trade's being carried on between our subjects, and their settlements in the West Indies. It is a liberty we ourselves take with the ships of all nations, that are found hovering within two leagues of our coasts. Nay, it is a liberty which seems to be granted to them, and established by the treaties subsisting between the two crowns; for by the 4th article of the treaty between Spain and us, in the year 1667, it is expressly stipulated, That if any ship belonging to the subjects and merchants of the one or other nation, entering into bays, or in the open sea, shall be encountered by the ships of war belonging to the other nation; such ship of war may examine such merchant-ship, and if any prohibited goods be found on board such ship, the same may be taken out and confiscated. From whence it appears, that the Spanish ships of war have already a power to examine such of our merchant-ships as they encounter in the open seas, whether in America or Europe; for the article is without limitation; and if they have of late made an unjust or wrong use of that power, we ought to insist upon its being put under such regulations, as may prevent such a bad use being made of it in time to come; but as the contriving and settling such regulations, must require a consultation with those who are well acquainted with the trade and navigation in America, we cannot suppose they could be settled by a preliminary treaty; and therefore, the only measure that could be taken, was, to refer them to be settled by plenipotentiaries, so as that they might afterwards be made part of a definitive treaty between the two nations.

I must now, my Lords, beg leave to consider a little the dispute between Spain and us relating to Carolina and Georgia. This, likewise, my Lords, cannot properly be called a dispute about any of the undoubted rights, either of this nation, or of Spain. They do not dispute, at least they have not lately disputed, our rights to what was formerly called Carolina, of which Georgia is a part; nor do we dispute their right to the southern parts of Florida: the only dispute between us, is about the limits between our respective possessions in that part of the world; and this dispute it was impossible to settle by a preliminary convention. Such disputes, we know, are seldom adjusted, even by a definitive treaty; for when any such dispute subsists between two nations, they often, I may say generally, conclude even a solemn and definitive treaty, and by that treaty they agree, that the limits between their respective territories shall

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be afterwards adjusted and settled by commissaries or plenipotentiaries, to be named and appointed by the two contracting parties respectively; and therefore, my Lords, I must say, I am surprized to hear the least objection made against this part of the Convention now under our consideration.

It is true, my Lords, we have agreed, that during the time that the discussion of this affair, relating to the limits between Carolina and Florida, shall last, things shall remain in the aforesaid territories of Florida and Carolina, in the situation they are in at present, without increasing the fortifications there, or taking any new posts. This is a sort of suspension of the free enjoyment of our right, but this is a confirmation of the right itself; because it imports an acknowledgment from Spain, that we have a right to some territories in Florida or Carolina. And for this very reason, it would have been wrong in us to have admitted of any article or words in this treaty, for obliging the Spaniards to suspend searching our ships on the open seas of America, during the discussion of that affair; because our having stipulated any such suspension, would have been an acknowledgment that they had some sort of right to do so; in which case, some lords would have had much more reason than they have at present, to insinuate, that by this treaty we had given up, or rendered disputable, some of the most undoubted rights of this nation.

Having thus, my Lords, shewn, that no reasonable objection can be made to the treaty now before us, I must beg your lordships to consider the present circumstances of Europe, the circumstances of this nation, and the relation we stand in to Spain. To all nations it must be granted, that peace is a desirable thing. It must be allowed, that no nation ought to enter into a war against any neighbouring nation whatever, if they can obtain every thing they can justly demand by peaceable means. But with regard to this nation, we ought to be more cautious of entering into a war than most others. We are a trading nation: a great part of our people subsist by trade; and even our landed gentlemen, who have no concern in trade, owe a great part of their yearly revenue to the commerce and manufactures we carry on; for if it were not for our trade and manufactures, our farms could not let at so high a rent as they do, nor could we have near so many houses in our towns and villages. Therefore, as war must always interrupt our trade, we ought to be extremely cautious of engaging in war, and more so with regard to Spain than most other nations in Europe; because, I believe it will be allowed, that our trade with Spain is more profitable to the nation in general, than our trade with any other nation in Europe, except Portugal alone. But suppose we were under a sort of necessity to engage in war, yet unless that necessity were extremely urgent as well as unavoidable, we ought to put off engaging in war for some time, both on account of our own circumstances, and on account of the present circumstances of affairs in Europe. With regard to our own circumstances, it must be confessed, that, considering the present heavy load of debt we labour under, and the many taxes we are obliged to raise for the payment of that debt, we are at present in no very good condition for engaging in a dangerous and expensive war; and with regard to the affairs of Europe, they were never in a more unlucky situation for us, than they are at this time. If we should immediately engage in a war with Spain, it is possible, I may say, it is probable, that the Spaniards will be assisted by France, and perhaps by some other powers of Europe we little dream of at present. On the other hand, as the emperor is engaged in a war with the Turks, and has been most surprisingly unlucky in the prosecution of that war, we can expect no assistance from that quarter; and this will of course prevent any of the other powers upon the continent from giving us any assistance, because it will be impossible to form an army upon the continent, sufficient for protecting them against the united force of France and Spain, assisted, perhaps, by several of the other princes and states in Europe.

I know, my Lords, it may be said, that as we have the good luck to be environed by the sea, and have a fleet superior to any that France and Spain, joined together, can bring against us, we may protect our own trade and dominions, and so much infest the trade and dominions of our enemies, as to make them, at last, glad to agree to reasonable terms; but, my Lords, if our enemies are, by their great land-armies, absolute masters upon the continent, they may not only prevent our receiving assistance from any of the princes or states upon the continent, but they may induce or oblige them all to join against us; at least, they may oblige them to deny us access to any of their ports or harbours,

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either for our men of war or merchant-ships, which would at once put an entire stop to our trade, and would make it impossible, or very dangerous, to send our squadrons to any great distance from our own ports; for though they may be superior to any squadrons that can be fitted out against them, they are not equal to winds and tempests. By these they may be scattered and dispersed, some of them, perhaps, swallowed up, and the rest left a prey to a pusillanimous foe, that might lie skulking in port, and watching for such an opportunity.

It must therefore be acknowledged, my Lords, that the present circumstances of our affairs, both at home and abroad, are no way suitable for our engaging in an immediate war. I should have been far from saying so much of them, if they had not been well and publicly known. And as every thing I have said is well known to every court in Europe, I think, that, instead of finding fault with the little we have obtained by this preliminary treaty, we have reason to be surprised, that his Majesty was able to obtain so much. If the treaty had been much less favourable for us, I should have been for approving it, because it would have prevented our being obliged to come to an immediate rupture; for though the circumstances of our affairs, both abroad and at home, be at present in a bad situation, they cannot long continue so: our own circumstances, while we remain at peace, will be every day growing better: we shall every year be able to pay off some part of our debt, and thereby either diminish our taxes, or increase our Sinking Fund. And as to the circumstances of affairs in Europe, they cannot long remain in the present situation: it is the peculiar happiness of this island, that no one nation in the world can attack us; and, if we do not rashly and unadvisedly attack them, if we will but have patience, we can seldom fail of meeting with a good opportunity, in every four or five years time, for making the proudest and the most powerful nation in Europe, heartily repent of having injured this nation; and that without exposing our own country to the least danger, or to any great expence. As there are a great many different interests upon the continent, as those different interests are every day creating disputes among the princes and states thereof, and as several deaths may happen that must give the affairs of Europe a turn in our favour; it would be most imprudent in us to engage in a war at present, when the state of affairs in Europe is in a situation the most unfavourable for this nation that ever any age produced; and therefore, I must think, that the Convention now before us, was one of the wisest steps that could be made; and that it highly deserves the thanks of every man who wishes well to his country.

To what I have said, my Lords, I must add, that in a few years, we shall probably be more united among ourselves, than we are at present. It must be allowed, that we have at present a very numerous party amongst us, who would be ready to join any invader against our established government: some, out of a real principle, some, from the hopes of making or mending their own private fortunes by the change, and some from malice and an unjust resentment against those who are employed in our administration. The numbers of those who are from principle disaffected to our government, will be decreasing every day; because, as their disaffection proceeds from a wrong education in their youth, their children have had an opportunity of learning other principles, and of discovering the ridiculousness of those principles by which their parents were governed; so that nature itself must put an end to this disaffection, since it can meet with no considerable supply from the rising generation. As for those who hope for advantage by a change, their numbers will always depend upon the probability of success, and therefore must always be greater or less, according as the juncture of affairs abroad is unlucky or favourable for this nation: and as to those who are governed by malice and resentment, time itself must blunt the edge of their passions; and common prudence will prevent their engaging with the enemies of their country, when, from the state of affairs in Europe, they can have but little probability of success.

From all which considerations, my Lords, I must be of opinion, that if the present Convention had not been near so satisfactory as it is, it would have been more prudent in his Majesty to have accepted of it, than to have engaged the nation in an immediate war; but as I have shewn, that we have thereby obtained all we could reasonably desire, it must be allowed that his Majesty has closely, and with surprizing success, followed the advice that was given him by his Parliament last session; and therefore, I think, we can do nothing

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less than thank him in the terms proposed.

The Lord *Carteret*:

My Lords; as I have before given you my opinion upon this question, which is not in the least altered by any thing the noble lord that spoke last has said, I rise up now only to take notice of some things that fell from that noble lord. In the first part of his discourse he endeavoured to shew, that the measures pursued since last session, and the Convention that has been concluded, were agreeable to the Resolutions and Address of this House last session of Parliament. My Lords, it is so far otherwise, that to any one who reads the Resolutions we then came to, and the Address we then presented, both the measures we have pursued, and the treaty we have concluded, must appear to be directly contrary to the advice we then gave. We advised peaceable measures, it is true, but we did not advise that the nation should, in the midst of peace, be put to the expences of a war: we advised his Majesty, it is true, to endeavour to procure satisfaction and security by peaceable means, but we did not advise him to accept of a treaty which stipulates neither the one nor the other: on the contrary, we expressly recommended to his Majesty, to insist not only upon no search, but upon no contraband goods; whereas, in the treaty, his ministers advised him to accept of, there is not so much as a stipulation against either the one or the other, though both have been for several years openly and expressly pretended to by the Spaniards, and many of our merchants plundered and ruined under that pretence.

My Lords, to pretend to give weight to negociations by raising armies, and fitting out squadrons, is a very modern, and a very extraordinary piece of politics: a sort of politics that was never practised in any country but this, nor in this, before the happy æra of our present administration. When a nation is actually engaged in war, it would, indeed, be imprudent to disband their armies, or lay up their squadrons, till a peace is fully settled; but in time of peace, it is ridiculous to put a nation to the trouble and expence of armaments, till a war is actually resolved on. As long as there are any hopes of obtaining satisfaction by peaceable means, no wise and frugal government ever put themselves to the expence of extraordinary military preparations. When all such hopes are vanished, they then, indeed, prepare for war; but it is always with a design to make a proper use of the preparations they make, unless their enemies, besides satisfaction for all former demands, agree to make good the expence which their obstinacy has occasioned. To raise armies, and fit out squadrons, under pretence of giving weight to negociations, can serve no end therefore, but that of ministers, who by such means get an opportunity of filling their own, and the pockets of their friends; for there is no power we can negociate with, but knows, that we can both raise armies, and fit out squadrons, in case our negociations should prove unsuccessful; and our putting ourselves to such expence, before we know the issue of our negociations, must give those we negociate with, a bad opinion of our conduct, which will of course diminish the weight of our negociations; because they will conclude, that those who do not know how to govern in time of peace, will much less know how to govern in time of war. This we may know from fatal experience; for this nation had never so little influence upon the councils of Europe, as since we began to pretend to give weight to our negociations, by maintaining or increasing peaceable armies, or fitting out harmless squadrons: we have, by a long course of such politics, I am afraid, brought the nation into such contempt, that our neighbours now as little regard our military preparations, as they do our pacific negociations; and we have of late years made so many counter-treaties, that, I am afraid, every nation in Europe despises our promises, as much as they contemn our threatenings.

If we consider what has been done since last session, and the great expence the nation has been put to; nay, if we give credit to what has been insinuated by the noble lords who have spoke in favour of this Convention, we cannot say his Majesty has obtained this treaty, insignificant as it is, by peaceable measures, but by warlike preparations; and if the obstinacy of the Spaniards made such preparations necessary, they, and not the people of this nation, ought to have been made to pay for their obstinacy. But with regard to the treaty itself, if we will but look upon the Resolutions and Address of last year, we must see that it is still more contrary to the advice we then gave. We advised and recommended in the strongest terms, that his Majesty should insist upon

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no search, and also upon no contraband goods: in this treaty there is not a word of either; and yet every one must allow, that we recommended, and that we had great reason to recommend, that the Spaniards should be obliged, either by peaceable means, or by force of arms, to pass from both these pretences in the most express terms. The Spaniards, my Lords, may, without our consent, make what regulations they please for preventing an illicit trade with their colonies in America, provided these regulations be not inconsistent with the law of nations, nor contrary to the treaties subsisting between the two Crowns: but that of searching our ships on the open seas, is not only inconsistent with the law of nations, but expressly contrary to the treaties subsisting between the two Crowns. The noble lord was pleased to repeat a part of the 14th Article of the treaty of 1667: I wish he had repeated the whole; for by that Article it is expressly stipulated, "That if any ship belonging to the subjects and merchants of the one or the other nation, entering into bays, or in the open sea, shall be encountered by the ships of war of the other; such ships of war, to prevent disorders, shall not come within cannon-shot, but shall send their long-boat, or pinnace, to the merchant ship, and only two or three men on board, to whom the master shall shew his passports and sea-letters, to which entire faith and credit shall be given." Nay, by the foregoing Article it is provided, "That if the ships belonging to the subjects of the one or other nation, be necessitated to anchor in the roads or bays of either, or even to enter into the ports of either, they shall not be molested or visited; but that it shall be sufficient for them to shew their passports or sea-letters, which being seen by the respective officers of either king, the said ships shall return freely to sea without any molestation." From hence we may see, how careful our administration was in the reign of king Charles 2, to guard against our merchant-ships being exposed to the trouble and inconveniencies of a search; and yet some people are as ready to censure every thing that was done in that reign, as they are ready to applaud every thing that has been done in the present.

This treaty of 1667, my Lords, as the noble lord that spoke last has observed before me, is a general and unlimited treaty: it relates to the seas of America, as well as to the seas of Europe; and as it has been renewed and confirmed by every treaty betwixt the two Crowns since that time, it plainly demonstrates, that the searching our ships in any part of the world, or under any pretence whatsoever, is contrary to treaty, as well as inconsistent with the law of nations. Therefore, as the Spaniards have lately set up a pretence to search our ships on the open seas of America, before we had submitted to treat with them about any regulations, for rendering effectual the right they have to prevent an illicit trade with their settlements in that part of the world, we ought to have insisted upon their passing from this pretence, in the most explicit terms that could be made use of.

Now, my Lords, with regard to contraband or prohibited goods, for we must take care to distinguish between the two: because contraband goods are only arms, ammunition, and other utensils of war, which are on board a ship bound to an enemy's port; therefore none of our ships, either in the American seas, or any other seas, can have any goods on board, which the Spaniards can call contraband, unless she is bound to some of the ports of those who are at that very time in war with Spain. But suppose a Spanish ship of war should meet at sea a British ship, and that by her passports or sea-letters, it should appear, that she is bound to a port then belonging to the enemies of Spain; for it can no other way appear, but by her passports or sea-letters, as is evident from the 14th article of the treaty of 1667, which I have already mentioned: yet even in that case, the Spaniards are not to search the British ship at sea, nor are they to confiscate the ship and cargo, for the sake of the contraband goods that appear to be on board. But by the 23d Article of the same treaty, it is expressly provided, "That in case any contraband goods be found on board, by the above-said means, they shall be taken out and confiscated; but for this reason the ship and the other free and allowed commodities which shall be found therein, shall in no wise be either seized or confiscated." And to prevent all disputes about what may be deemed contraband, the several sorts of goods to be deemed contraband, are particularly enumerated in the 24th Article; and by the 25th Article it is expressly stipulated, "That wheat, rye, barley, or other grain, or pulse, salt, wine,

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oil, and generally whatsoever belongs to the sustaining and nourishing of life, shall not be deemed contraband, though designed to be carried to the towns or places of enemies, unless such town or place be besieged, and blocked up, or surrounded;" which shews, that if the Spaniards had the least regard for this nation, or for the treaties subsisting between the two crowns, they would never have pretended to have seized a British ship in the American seas, on account of her having any contraband goods on board.

As to prohibited goods, my Lords, they are very different from those properly called contraband. Prohibited goods, which in Latin are called *merces prohibitæ*, without adding the words *vulgo contrabandæ*, are such goods as are prohibited to be imported, or such as are prohibited to be exported, by the laws of any particular country. Both in Spain and England there are goods which are prohibited to be exported, and as there is an intercourse of trade between the two nations in Europe, the subjects of England may be liable to be punished, if they should export from Spain any of the goods prohibited to be exported by the laws of that kingdom, as well as the subjects of Spain may be liable to be punished, if they should export from hence any of the goods prohibited to be exported by the laws of this kingdom. This, I say, may be the case with regard to our respective dominions in Europe; and therefore this case too was regulated by the treaty of 1667; for by the 15th Article of that treaty it is stipulated, "That if any prohibited goods be exported from the territories of either of the said kings, by the respective subjects of the one or the other, the prohibited goods shall be only confiscated, and not the other goods; neither shall the delinquent incur any other punishment, except he shall carry out from the dominions of the king of Great Britain, the proper coin, wool, or fullers earth of the said kingdoms: or shall carry out of the kingdoms or dominions of the said king of Spain, any gold or silver wrought or unwrought; in either of which cases the laws of the respective countries are to take place."

But, my Lords, as there is no intercourse of trade between the subjects of Great Britain, and the Spanish settlements in America, or between the subjects of Spain and the British settlements in that part of the world, therefore there can be no goods on board any ships of the one nation trading in those seas, that can be called prohibited by the other. The very trade itself is prohibited, and consequently every shilling's worth that any British ship can export from the Spanish settlements in America, let the goods be of whatever sort or kind, must be prohibited; and may be seized and confiscated, not because she has got prohibited or contraband goods on board, but because she has been concerned in an illicit trade.

From what I have said, my Lords, it must appear, that no British ship sailing in the American seas, can have any goods on board, which the Spaniards can call prohibited or contraband goods; and as they have lately set up such a pretence, and have seized and confiscated a great many of our ships on that account, therefore we ought to have insisted upon their waving that pretence, before we had submitted to treat with them upon any other article. But suppose the Spaniards should say they do not seize our ships in the American seas on account of their having prohibited or contraband goods on board, but on account of their having goods on board, which are the proper produce of their settlements in that part of the world, because they look upon their having such goods on board, as an incontestible proof of such ships having been concerned in an illicit trade with their settlements. My Lords, it would be ridiculous in us to admit of this, and still more ridiculous to admit of their searching British ships on the open seas of America upon this pretence; for they would certainly, soon after, pretend to search every ship they met with in the European seas, and to confiscate ship and cargo, in case they should find any Spanish gold or silver on board, because they would say, that her having Spanish gold or silver on board, was an incontestable proof of her having exported it clandestinely from some part of Spain, and consequently that the laws of their country ought to take place, according to the 15th Article of the treaty of 1667. Whereas by that treaty, and by the custom ever since, no British ship can be searched on the open seas by any Spanish ship of war; and consequently even those goods which are prohibited to be exported from Spain, cannot be seized or confiscated, after they are loaded on board a British ship, and that ship fairly out at sea, unless it should appear by her passports or sea-letters, that

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they were exported from Spain, which is a case that can never happen; for it can never appear by a ship's passports or sea-letters, that such goods were exported from Spain; because when they are exported from thence clandestinely, as they must be, no account of them can appear in the ship's passports or sea-letters; and such goods, when exported from any other country, cannot then be called prohibited goods, by the Spaniards; because they appear then by the ship's passports or sea-letters not to have been exported from Spain, and consequently can neither be seized nor confiscated by the Spaniards.

I shall allow, my Lords, that the Spaniards have as good a right to prevent an illicit trade with their settlements in America, as we have to prevent an illicit trade with ours. Between these two cases a parallel may be drawn, in order to see which of us takes the wisest and the justest methods for preserving our right. But I was surprised to hear a parallel attempted to be drawn between an illicit trade with the Spanish settlements in America, and a clandestine or unlawful trade upon the coasts of Great Britain and Ireland. In the former there is no intercourse of trade allowed to foreigners: No foreign ship can enter any of their ports, but in cases of the greatest necessity; therefore it is easy to prevent an illicit trade, without any severe precautions: To which I must add, that as there is no convenience of land carriage from the by-creeks and corners of their coasts to any of their great towns, no illicit trade can be carried on, but at places near some of their great towns, and there it would be easy to prevent it, by proper officers and proper regulations at land; nay, even one of their own governors was of opinion, as appears by a letter of his, which was read at our bar, that it would be easy to prevent an illicit trade, by proper precautions at land, without employing one guarda costa at sea. Whereas in Britain and Ireland there is a free intercourse of trade allowed to all foreigners, and convenient land or water carriage from every by-creek and corner of our coasts, to many populous cities and villages; and therefore, it is so easy for foreigners, as well as our own subjects, to run prohibited or uncustomed goods in upon us, or to steal our wool or fuller's earth away from us, that it is absolutely necessary for us to take precautions, both by sea and land, against such practices.

However, my Lords, notwithstanding the difficulty we labour under in this case, let us but consider the laws we have made against exporting of our wool, and against smuggling, and we shall find, that no foreign nation can have the least ground to, complain of them, nor can any foreigner suffer by them, unless he is really guilty, or very much to blame. We have, it is true, very severe laws against the exportations of our wool, and we have guard ships appointed on purpose, and instructed to seize all ships exporting that valuable commodity to foreign parts; but those guardships never pretend to search or seize any foreign vessel, unless they have a full proof, or very great cause of suspicion, that she has wool on board, which was actually exported, or carried out to her, from some part of Britain or Ireland. And as to those laws that have been made against ships hovering within two leagues of our coasts, they are so limited, that it is hardly possible any foreigner can suffer, unless he has a real design to smuggle; for, even by the last act that was made against such ships, which is the most severe, I mean the late famous smuggling act, passed but about three years since, the vessel must have tea or foreign spirits on board, and those spirits must be in casks under sixty gallons; and farther she must not only appear to be hovering, but also it must appear, that she did not proceed on her voyage, wind and weather permitting, and without the master's being able to shew, that she was detained, or prevented from proceeding, by any necessary cause whatsoever.

But my Lords, lest some of the Spanish advocates in this country should, from these laws, pretend, that we may allow the Spaniards to make free with such of our ships as they find sailing within two leagues of their coasts in America, I must take notice of some very material differences between the British and the American seas. In the first place, I am sure no man that has a true British heart will allow the Spaniards to usurp such a dominion over the American seas, as we have a just right to over the British. And, in the next place, I must observe, that no foreign ship, not bound for any of our ports, can have the least occasion to come within two leagues of any part of our shore, and much less to hover within two leagues of our shore, unless she has some bad design; but, on the contrary, as our coasts are flat, and full of sand banks, every fair trader will endeavour to keep above two

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leagues from our shore. Whereas, there are none of our ships that come from Jamaica to Britain, or that are bound from thence to any of our colonies upon the continent of America, but must steer their course close in with the shore of the Spanish islands of Hispaniola or Cuba: the reason of this is, because the course from Jamaica, by the windward passage, is much safer than that by the Gulph of Florida; therefore it is chosen by all ships coming from Jamaica, if they can possibly make it; but as the trade winds are almost directly in their teeth, they are obliged to keep close in with the Cuba shore, because there is a land breeze comes off from that island, which greatly assists them in their course, and without which it would be impossible for them to make the windward passage. And even when they find they cannot make the windward passage: when they find they must bear away for the Gulph, they must, for many leagues together, sail along the Cuba shore; and as they are obliged, after they pass Cape St. Antonio, upon the West end of the Island of Cuba, to turn up against the trade winds, they are under a necessity of keeping close in with the Cuba shore, in order to take the benefit of the land breezes from that island; for otherwise they would be in great danger of being forced by the trade winds and the currents, either into the Gulph of Mexico, or upon the Martieres; the danger of which has been confirmed by experience; for it was proved at our bar, that two ships were lost but last year, because they, in their course, kept farther from the shore of Cuba than usual, in order to avoid the guarda costas, by which means they were both drove upon the Martieres and lost. But this is not all, our ships must not only keep close in with the Cuba shore, but when they are endeavouring to make the windward passage, they are often obliged to hover near that shore, or the shore of Hispaniola, for two or three weeks, when the trade winds blow hard, in order to wait for a calm, that they may thereby have an opportunity of making that passage.

This shews, my Lords, that we cannot allow the Spaniards to search our ships within any limits at sea, even though they should be found hovering upon their coasts; and they have made so bad an use of the power they have lately usurped, that we have, I am sure, no reason to give them a right to that power by treaty, under any limitations whatever. But farther, it is a power they have no occasion for, unless it be to injure and interrupt our trade; for their coasts are not like ours in Britain and Ireland: they are not full of inhabitants, and fishing or trading villages at every creek: they have no inhabitants, but in, or near their great towns, therefore no illicit trade can be carried on but in their ports, or at some creek very near them; and there it is impossible to carry on any illicit trade, but by the connivance of the Spanish governor, which is generally purchased by illicit traders, in which case the Spanish guarda costas dare not touch them; so that these guarda costas can be of no real use, but to molest and plunder, or seize, under frivolous pretences, those foreign ships, that have no design to carry on an illicit trade with the Spanish settlements, and therefore will not be at the expence of making presents to Spanish governors.

I hope, my Lords, I have now made it appear, that no regulations can be settled between Spain and us, for preserving the right they have to exclude foreigners from carrying on any trade in their settlements in the West-Indies. They may lay what penalties and forfeitures they will upon their own subjects in that part of the world: they may even lay what penalties and forfeitures they will, upon those British subjects that shall come within their territories, contrary to the treaty of 1670; but they can lay no penalty or forfeiture on, nor can they subject to their regulations, any British ship or subject that does not come within their territories in America, which we cannot allow them to extend beyond the limits of their ports, havens, and inhabited creeks, unless we have a mind to yield up to them the sovereignty of the American seas, which I hope no British minister will dare. Therefore, I cannot comprehend what our plenipotentiaries have to regulate, with relation to our trade and navigation, unless they are to regulate and restrain (for every regulation must be a restraint) our right to a free navigation in the American seas; or our right to carry in our ships, whatever goods or merchandize we please, from one part of his Majesty's dominions to another. From hence it is evident, that this Convention is so far from being agreeable to the resolutions of this House last session, that it is directly contrary to them; for which reason, it ought certainly to be some way amended.

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But to me, my Lords, no amendment can be of any signification. I shall be against the motion, however amended: the Convention I cannot approve of in any shape, or in any words: I have shewn it to be a most dishonourable and destructive treaty, and therefore, if any motion had been made for censuring it, I should have most heartily concurred; but as no such motion is now before us, I shall satisfy myself with giving a negative to the present question. In this, I hope to have a happiness I have been for many years very little accustomed to: I hope to have the concurrence of a great majority of this House; for surely, no Lord that hears me, can be under the least difficulty in joining with me upon this occasion. If the question had been for censuring this Treaty, bad as it is, some Lords might have found themselves under difficulties: they might, perhaps, have been unwilling to censure what has been done by their friends; but no rule of friendship can lay them under a difficulty in giving their negative to the present question. It is only refusing to approve of what they think does not deserve their approbation; and to approve with our lips, of what we in our hearts despise, is the part of a flatterer, not of a friend.

The Earl of *Cholmondeley*:

My Lords; as I am far from having the least doubt of our right to a free navigation in the American seas, or of our right to carry in our ships what goods or merchandize we think proper, from one part of his Majesty's dominions to another, I very much approve of what the noble lord that spoke last hath said in vindication of these our rights; but from his having been at the pains to say so much in their vindication, I am persuaded the Spaniards may have something to say against them, or at least that they may have some reasons to offer, why we should agree to their being laid under some regulations, in order to secure them against an illicit trade's being carried on by our people in their settlements; and this convinces me, that our disputes upon this subject, were of such a nature, as could not be fully settled by a preliminary treaty. It must require some time to convince the Spanish court, that these our rights can admit of no regulations, especially as it is the interest of the Spanish governors and captains of guarda costas in America, to insist upon it that they may; and as there is nothing in the Convention now before us that can in the least derogate from either of these rights, I am far from having such an opinion of it as some noble lords have been pleased to express. On the contrary, I think it the most we could expect in so short a time, and therefore, I thought the least I could do, was to move for an address in the terms I have taken the liberty to propose.

If this were a solemn and definitive treaty, my Lords, there might be some reason for saying, that it did not come up to our resolutions and address of last session; but as it is only a preliminary Convention, and as by this preliminary his Majesty has obtained, by peaceable measures, a part of what was recommended to him last session, I mean reparation for our losses, and has, in my opinion, laid a foundation for obtaining, by the same means, all that was recommended to him; I think he deserves thanks from every man who delights in peace, or wishes prosperity to the trade and navigation of Great Britain. From such, I say, he deserves thanks; and he deserves it the more, on account of his having obtained those terms by peaceable measures; for though the fitting out of squadrons may be called warlike preparations, they cannot be called warlike measures; and whatever other lords may think, I shall always be of opinion, that, in time of peace, as well as in time of war, the courts we negociate with will have the more regard to what we propose, when they know we are ready to back our proposals with a well-disciplined army, and a powerful fleet to convey that army wherever we have a mind. We can, it is true, raise armies and fit out squadrons whenever we please, but we can do neither in an instant; and when foreign powers know that we have none such ready, they will of course suppose they may have time to prepare for their defence, before we can be in a condition to attack them; which will render them less pliable than they would be, if they knew that the immediate consequence of their refusal would be a powerful invasion from this kingdom, upon some part of their territories.

For these reasons, my Lords, I do not think the motion I have made stands much in need of any Amendment; but if the noble lord that spoke last, or any other lord, will please to propose an Amendment, I shall willingly agree to it, unless it appear to be a very unreasonable one; for all that I propose, my Lords, is, that we should make such a compliment upon the present

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occasion to his Majesty, as has always been usual when any treaty, convention or negociation has been laid before this House by the King's order. This, I think, is upon all such occasions necessary; but, upon the present, I must think it more necessary than upon most others; because his Majesty's success, with regard to the solemn and definitive treaty, which is to be concluded in pursuance of this preliminary Convention, must entirely depend upon the respect shewn to his Majesty by his parliament, upon this occasion.

The Earl of *Chesterfield* *:

My Lords; I very little mind the Address proposed, or any address that can be proposed upon this occasion: nor am I under the least concern, whether you amend it or no; for I shall be against it, however amended. I think this Convention the most inglorious, the most pernicious that this nation ever made; and therefore I shall be against any thing that may seem to insinuate the approbation of this House. We are sworn to be faithful counsellors to his Majesty, and I think it would be deceiving him, it would be a breach of our honour, a breach of our oath, to present to his Majesty an Address that may bear the most distant resemblance of an approbation of such a treaty. I do not know who were the authors of it; and therefore I cannot condemn the Convention because of the authors; but I must condemn the authors, be they who they will, because of the Convention. But, my Lords, though I do not know who were the authors, I know who were not: I know his Majesty was not: I know he would never have approved of it, if matters had not been egregiously misrepresented to him. It is not, my Lords, to the King, we are to shew our respect by an address upon this occasion: it is to his ministers; for I must always look upon addresses that seem to insinuate an approbation of public measures, as addresses made to the ministers who advised and conducted those measures. It is not therefore to the King, but to his ministers, that we are to shew our respect upon this occasion; and the only method by which we can regain from foreign nations, that respect which is due to this, and that which we have forfeited by our late conduct, especially by our agreeing to this Convention, would be to shew no respect to those that made it, but to censure it, and then address his Majesty, to know who had advised it. This would be shewing a due respect to our sovereign, and a due respect to our own honour. As for our success, with regard to the solemn and definitive treaty, that is to be concluded in pursuance of this preliminary Convention, I hope we shall have none; I would disappoint it if possible; for I am sure it is impossible to obtain an honourable treaty, in pursuance of such a dishonourable preliminary.

Last session of parliament, my Lords, we strengthened the hands of the crown in a most extraordinary manner: we put it in the power of the crown to obtain satisfaction, reparation and security, by force of arms, if they could not be obtained by peaceable means; but no proper use has been made of the extraordinary powers we then granted. Great fleets have, indeed, been fitted out: the nation has been put to great expence, our seamen harrassed, and our trade interrupted: from these mighty preparations the nation expected great things; but the Spaniards knew better: they knew the instructions given to our formidable squadrons; or at least they judged of them from former experience. They knew our fleets were directed by the same counsels they have been for several years past, and therefore they concluded, they were furnished with the same harmless instructions. We had before sent a fleet to Carthagena, where it lay peaceably for several months, an over-mntch for Spain, but an cnequal match for the worms and climate. We had before sent a fleet to Gibraltar, when it was actually besieged by the Spaniards; but that fleet was not to attack or annoy them: no, it was so civil as to open to right and left, and let provisions pass through for the enemy's besieging army: nay, it seems, they had instructions not even to protect our trade; for some of our merchant-ships were taken under their very nose.

* "The earl of Chesterfield spoke against this warlike peace, as he called it, with great force of argument, as well as eloquence and wit. He probably was animated by the presence of the Prince of Wales, who assisted at the debate, and thought proper, in an affair which so nearly affected the glory of the nation, to vote, for the first time, and to divide with the opposition. This speech of lord Chesterfield is one of those which were chosen by Rousset to be inserted in his Recueil, as containing the principal arguments urged by the English in support of their pretensions; but the translation is by no means worthy of the original." Dr. Maty's Memoirs of Lord Chesterfield.

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Our fleets sent out last summer, my Lords, now appear to have had the same sort of instructions. We may judge of the instructions given to that sent to the West Indies, from an accident that happened. One blunt English captain that was sent out upon a cruise, imagining that his country was not put to the expence of sending out fleets to do nothing, happened to meet with a Spanish register-ship, which he took and brought into Jamaica, as a lawful prize; but the commodore knew the secret: he knew we were not to take, but in the most humble manner to sue for satisfaction and justice; and therefore he ordered the captain not only to set his prize at liberty, but to convoy her back, with great respect, to the latitude in which he took her. Our squadron sent to the Mediterranean could have no warlike instructions; because they could do no harm to Spain, unless it had been to make prize of some of their fishing-boats, or coasting-barks: they had no land-forces on board, nor were provided with any thing proper for annoying any Spanish town or village upon the sea coast. None of our fleets therefore could give the least weight to our negociations: they could serve for nothing, but to confirm the Spaniards in the contemptible opinion they have long entertained of us; and the consequence we find is agreeable. We have obtained no satisfaction for the many indignities that have been put upon us; it does not appear that we ever asked for it. We have obtained no reparation for our losses, but what was before agreed to by Spain, or what one part of our own people must make to the other. And we have obtained no security for our trade or navigation: that we have left entirely to our plenipotentiaries; and they are such plenipotentiaries, as, I believe, no nation in the world would have trusted with an affair of such consequence; for I do not know that either of them has one shilling's worth estate in any part of his Majesty's dominions, to answer for any malversations or breaches of faith they may be guilty of.

I am surprized any lord should imagine, we have got as ample satisfaction as we could insist on. My Lords, the word 'satisfaction' ought not to be mentioned by any one that talks in favour of this Convention: we have got none. Has Spain agreed to punish or deliver up any one of its governors or captains, that have so cruelly used our seamen? This alone can be called satisfaction; and this we were afraid to ask. We have not so much as got, by this Convention, any reparation for our losses; and yet we have by this Convention given the Spaniards a general release. My Lords, I shall shew that we have got no reparation, but what Spain had before agreed to give, or what one part of our own people must make to the other; and in order to do this, I must examine the just demands, which, it is said, Spain had upon us. The only demands I ever heard of are, that which relates to the ships we took from them in the Mediterranean in 1718; and that which relates to the ship they call the Santa Theresa, which was seized at Dublin in 1735. If there are any other, I wish the noble Lords who talk so much in favour of the Convention, would mention and explain them.

Now, my Lords, with regard to the ships we took from them in 1718, I must insist upon it, that they were justly taken, and were lawful prize. But as we, by the treaty of 1721, agreed to restore them, let us examine the words of that treaty, in order to see whether we have not long since complied, as far as we were obliged, with the terms of that treaty. The words of the 5th Article of that Treaty are, "That his Britannic Majesty shall cause to be restored to his Catholic majesty, all the ships of the Spanish fleet which were taken by that of England, in the naval battle fought in the seas of Sicily in 1718, with the guns and other equipage, in the condition they are at present, or else the value of those that may have been sold, at the same price that the purchasers shall have given." These are the words of the treaty; and in pursuance of this, his Catholic majesty sent commissaries to Port Mahon, where all these ships were, except one, for I never heard that any more of them were sold; and the ships were accordingly, by his Majesty's orders, offered to be delivered to these commissaries, with their guns and other equipage, in the condition they were then in, which was all we were obliged to; but the commissaries refused to accept of them, because they were in a decayed condition, and unfit for service. Therefore, if these ships were not restored, it was the king of Spain's own fault; for we performed all that was incumbent upon us, by the treaty of 1721; except as to what related to the ship that had been sold, and that ship having been sent to Spain by those that purchased her, after they had fitted her up for service, at a very great expence, the Spaniards

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thought fit to seize her, by which they gave us a claim upon them, instead of their having any upon us, on account of that ship; for we were obliged to account for her only at the price at which she was sold, whereas, when they seized her, she was worth a great deal more.

From hence it appears, my Lords, that they could have no just demand upon us, on account of any obligations we laid ourselves under by the treaty 1721. And with respect to the ship they called the Santa Theresa, it is well known, that she was one of those many British ships that have been of late most unjustly seized and confiscated by the Spaniards; and as she happened to be sent upon a voyage to Dublin by some Spanish merchants, the former owner being there at the time, immediately discovered her to be his ship; and he having applied to the government there, and fully proved his property, we could not refuse to do justice to our own people in our own ports; though we have for many years neglected to obtain justice for them from the Spaniards; but if we consider the Convention, we shall find, that the value of this ship is not to be included in the 60,000*l.* demand, which they make upon us; for by the second separate Article, this ship is to be referred to the plenipotentiaries, and if they should give it against us, the value of her is still to be accounted for, or to be allowed in whole, or in part, as a compensation for the British ship called The Success, the restitution of which is stipulated by the same Article.

I hope I have now shewn that the Spaniards had no just demands upon us; and therefore, I cannot comprehend how any Lord can talk of the mutual demands that were between the two nations. My Lords, there were no mutual demands: the demands were all of our side: we had taken great care they should have no demands upon us; for to our Christian patience and long suffering, we added a Christian sort of revenge. We heaped coals of fire upon their heads, by returning them many good offices for many injuries received; but whatever Christianity may teach with regard to private life, I am sure it inculcates no such doctrines with regard to the behaviour of nations or governments towards one another; and I have good reason to believe, that those who have been the chief authors of our political tameness and submission, were no way influenced by any Christian motives.

I shall now, my Lords, consider the demands we had upon Spain; and here I must observe, that the demands of our merchants for ships plundered or seized by the Spaniards, before our commissaries returned from Spain, which is three or four years since, amounted to above 400,000*l.* which sum was reckoned as the value of what was taken or plundered at prime cost; for if our merchants had valued it at what they might have sold the cargoes for at market, it would have amounted to above 500,000*l.* besides the damages they suffered by the interruption of their trade, raising the premiums upon insurance, and loss of ships, two of which we had an account of from the gentlemen that were examined at our bar, besides many others that were never heard of; some of which there is great reason to suspect were taken by Spanish Guarda Costas, and the ships, with every living soul on board, sent to the bottom of the sea, after those pirates had gutted them of all they thought fit for their purpose. Therefore, the amount of our real damages, and consequently of our real demands upon Spain, at the time our commissaries left that kingdom, was at least 500,000*l.* sterling; and as the Spaniards have taken and plundered a great many of our ships since that time, our demands upon them for damages, without reckoning costs, must have amounted to a great deal above 500,000*l.* at the time we began to negociate this Convention; for if to this we should add our costs, I mean the extraordinary expence the nation has been put to by their obstinate refusal of justice, our demands upon them at that time, would amount, I believe, to at least a million sterling, without one shilling's worth of a just demand upon their side; and this whole demand we have, by this Convention, released, for the sum of 27,000*l.* which is less than the king of Spain himself had allowed (before this Convention was thought of) to be justly due to us, as I shall presently make appear.

My Lords, the value put by our commissaries on the demands of our merchants, is what I have not the least regard to. They seem to have been Spanish, and not English commissaries. It is true, they reduced the demands of our merchants to 200,000*l.* but they had not the least reason for what they did. One of them that was examined at our bar, could not give the least shadow of reason for making any reduction, and much less for making such an extraordinary reduc-

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tion. From what he said, we may judge how they lumped things in favour of Spain. He told us, that for about twenty sloops, that even they allowed to have been unjustly seized, they lumped them at 100*l.* a piece, though every one knows, that no sloop, proper for sailing on seas where tornados, tempests, and hurricanes are frequent, can be built and fitted out for 100*l.* without reckoning the seamen's cloaths, provisions, and other things that must be on board. From hence we may see, they were resolved to reduce the demands of their countrymen as low as possible. From whom they could have instructions for this, I cannot imagine: I am sure it was not from his Majesty; and if they received such instructions from any of his ministers, they ought not to have complied with them: it was betraying his Majesty, and sacrificing the interest of his people, to the selfish views of some of his ministers.

But even this sum of 200,000*l.* the court of Spain was resolved, it seems, not to make good; and as our ministers were, it seems, resolved to have a treaty at any rate, it became necessary for them to reduce this sum. For this purpose, we have allowed of a demand of 60,000*l.* which the Spaniards made upon us, though they had not, as I have shewn, the least pretence for making such a demand. This reduced the 200,000*l.* to 140,000*l.* Well, but even this sum of 140,000*l.* the court of Spain refused to pay; therefore we allowed them to deduct 45,000*l.* for prompt payment. Whatever other lords may think, I must think, an allowance of near one third of the sum due, is a pretty extraordinary allowance for prompt payment; especially, when that which is called prompt payment, is only a promise to pay in four months. I have often, my Lords, heard of an allowance made for prompt payment, when money is paid before it is due by law or custom; but I never heard that the creditor made an allowance for prompt payment when he gave his debtor four months forbearance: the allowance is then generally of the other side. This was the case between Spain and us. The money was due, and immediately payable both by law and custom; therefore they should have made us an allowance for forbearance, instead of our making them an allowance for prompt payment. What necessity, what obligation, could we lie under to accept of assignments upon his Catholic Majesty's revenues in New Spain? It would have been ridiculous to accept of any such; because we knew, by experience, they were good for nothing.

However, my Lords, every pretence was to be admitted, that could be made, for diminishing the sum due to us from Spain: therefore this allowance for prompt payment was admitted of, and this reduced the 140,000*l.* to 95,000*l.* But still this sum was too large: the court of Spain would not so much as promise to pay even this sum: therefore, what our negociators had already allowed, for what I know, prompted them to set up a most unjust claim of 68,000*l.* against our South Sea Company; and though the Spaniards are, by their own acknowledgment, indebted to our South Sea Company in a much larger sum, yet it was agreed, that this 68,000*l.* should be immediately paid by the company to the king of Spain; and this immediate payment was made the fundamental article of the Convention; for the king of Spain's protestation or declaration, I must, and I am convinced the court of Spain will, consider as a condition *sine qua non*; and our agreeing to accept of any treaty under such a condition, is the more extraordinary, for that it was done by one who was the company's servant, and at that very time entrusted with the management of their affairs at that court.

We may now see, my Lords, what reparation the king of Spain has, by this Convention, agreed to make us. He has agreed to make a stipulated payment of 95,000*l.* to us in four months, provided our South Sea Company make an immediate present to him of 68,000*l.* so that he is to pay to us but 27,000*l.* out of his own pocket, which is a less sum than he had acknowledged to be due to us, before this Convention was thought of; because, before this Convention was thought of, he had acknowledged, that the five ships, mentioned in the 4th article, were unjustly seized, and had actually sent orders to New Spain for their restitution; and the value of these five ships will, I am sure, amount to more than 27,000*l.* Nay, if in pursuance of these orders they have been restored, which, indeed, I believe, we have no reason to apprehend, I do not know but we may be brought 4 or 5,000*l.* in debt; for by that article, the whole, or any part of them, that shall appear to have been restored, is to be repaid by us.

Let us now see, my Lords, what reparation we have obtained, by this Convention. Our plundered merchants are, indeed, to have 155,000*l.* divided among them, the

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salaries, fees and perquisites of those who are to make the division, being first deducted; and this they are to have as a full satisfaction for their damages, which amount to more than 500,000*l.* But how is this 155,000*l.* to be raised? Why 60,000*l.* of it must be raised by a tax upon our own people, or by making a new encroachment upon our sinking fund; 68,000*l.* another part of it, is to be raised by, or rather taken by violence from our own South Sea Company; and the remaining 27,000*l.* is to be paid to us by the king of Spain, which is a less sum than he had acknowledged to be due to us, before this Convention was thought of. I beg pardon, my Lords, for detaining you so long upon this head; but as this treaty seems to have been artfully calculated for palming a sham reparation upon the nation, I was obliged to examine it to the bottom, in order to detect the artifices that have been made use of for covering the deceit.

Now, my Lords, with regard to our future security, we have been so negligent of it in this preliminary treaty, that we have not so much as obtained from the Spaniards a suspension of their wonted depredations. Where Spain is to be a gainer by a suspension, there it is expressly stipulated; but where we are to be gainers, it is entirely neglected. We have promised to suspend all fortifications and improvements in Georgia and Carolina; but Spain has not promised to suspend searching our ships, and confiscating them upon frivolous pretences. For this neglect, a learned lord has found out a most ingenious excuse: he has told us, that if we had stipulated any such suspension, it would have imported an acknowledgment of their right to search and confiscate. How this may be in law, I do not know; but I do not think it agreeable to common sense. I cannot think, that my exacting a promise from a man to suspend doing me an injury, is the least acknowledgment, that he has a right to do me an injury. But if a suspension could be any way understood to be an acknowledgment of their right to search and confiscate our ships, the allowing them to continue the practice, must be a more direct, and, I am sure, a more hurtful sort of acknowledgment. Therefore, I must look upon this neglect in the preliminary Convention, as a bad omen, with respect to the definitive treaty. The time, it is true, in which this definitive treaty is to be settled, is but eight months: they cannot, perhaps, do us any great injury in that time; but that term may be renewed, may be often renewed, I believe it will be renewed from time to time, as long as some people have any influence in our councils; for I do not believe it will ever be in their power to make the Spaniards give up any right they pretend to; and no British minister will ever dare to grant them, by a solemn treaty, a right to search British ships on the open seas, or a right to prescribe to his Majesty's subjects what sort of goods they shall be allowed to carry in their ships from one part of his Majesty's dominions to another. For this reason, I do not know, but that our negociations for a definitive treaty may last as long as our negociations for this preliminary have continued, which I must look on to be at least ten years; for these renewals or continuations may be safely agreed to, because they will not be much taken notice of, or resented by the people; and during that whole time, the Spaniards are to continue to exercise a most unjust encroachment upon us, while we must continue to suspend the natural right we have to fortify and improve our own dominions.

As for the pretence, my Lords, that the Spaniards have given up their right to search or confiscate our ships, and have acknowledged themselves in the wrong, by agreeing to pay us damages and costs, I have already shewn that they have not agreed, by this treaty, to pay us any damages, but what they had before acknowledged to be due; and I was surprized to hear a learned lord, who certainly understands what is meant by damages and costs, so far mistake the matter, as to say, the Spaniards have agreed to pay costs. Our costs are the expences the nation was put to in warlike preparations last summer, which the Spaniards have not agreed to pay one shilling of; for whether those preparations are to be called warlike measures or not, they certainly cost us a great deal of money; and in all nations but this, they look mighty like war: even in this, till within these twenty years, they have generally been the certain harbinger of war; and will be so again, as soon as we begin to have a regard to our character abroad, or our œconomy at home.

My Lords, I have this day, and upon this occasion, heard a distinction made by a learned lord, between a right, and the enjoyment of a right. What the noble

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lord meant by his distinction, I cannot comprehend: for it is a distinction which, I confess, I do not understand. I am sure no right is good for any thing unless it be enjoyed, nor farther than it is enjoyed; and I must think, that whilst a man prevents my enjoying my right, he, for that time at least, takes from me the right itself. But after the noble lord had made this incomprehensible distinction, I was amazed to hear him say, there is no matter of right now in dispute between Spain and us. Do not they say, they have a right to search our ships on the open seas? It does not signify to us what frivolous pretence they found that right upon: they do pretend to it, they have enjoyed it, by our tameness, for too many years. Do not they say, they have a right to seize and confiscate our ships, if they find any gold, silver, logwood, cocoa, or other goods on board, which they are pleased to call the produce of their settlements in America? It signifies nothing to us, what reason they give for setting up such a claim: they do pretend to it, and have actually exercised this right, even since this treaty was first set on foot; for they seized captain Vaughan's ship on the 29th of June last, and have since condemned her, for no other reason, but because of her having some goods on board, which, they said, was the produce of their settlements, though it appeared that he had taken them in at Jamaica. These, my Lords, are matters of right, which, I hope, our ministers dispute with them: I hope no British minister will ever dare to yield to them in either of these respects. And, on the other hand, do not we say, we have a right to a free navigation in the American seas? Do not the Spaniards deny we have any such right? Do not they expressly say, we have no right to any navigation in those seas, but such as they have granted us by treaty? And that, they say, is only to and from our own colonies, whilst our ships steer a direct course; which they, as sovereigns of the American seas, are to be the only judges of. This is the meaning they put on the 8th Article of the treaty of 1670, which every man must be convinced of, that has read M. de la Quadra's letter to Mr. Keene, of the 10th of February was a twelvemonth: his words are, after having given an abstract of that Article, "That these words plainly shew the little grounds of the proposition you have advanced, that his Britannic Majesty's subjects have a right to a free commerce and navigation in the West-Indies, the only navigation that can be claimed by them, being that to their islands and plantations, whilst they steer a due course; and their ships are liable to seizure and confiscation, if it be proved that they have altered their route, without necessity, in order to draw near to the Spanish coasts." This, it is true, my Lords, is a most false and ridiculous interpretation of that Article; but this they have been prompted to insist on by our tameness, and by our puzzling the case with our negociations.

From hence we must see, my Lords, that there are rights of great importance in dispute between Spain and us. They pretend to rights which we can never admit of, as long as we possess a foot of ground, or have any trade in the West-Indies; and they deny us a right that every free state in the world has a just title to by the laws of nature and nations; and I will venture to prophesy, that, without a war, they will never give up the former, nor acknowledge the latter. We may negociate as long as we please: we may conclude sham treaties and Conventions, as temporary expedients for amusing our own people; but, from our late conduct, they have conceived such a contemptible opinion of us, that we must now fight them before we can expect any justice or satisfaction from them. This must at last be the case; but when this happens, it will not be those who then advise a war, but those, who by their pusillanimous conduct have made it necessary, that ought to be blamed for having led the nation into a war. If we had properly resented the first insult, and had peremptorily insisted upon full satisfaction, we might have obtained it by peaceable means; but now I am afraid it is become impossible: we must go to war before we can expect either satisfaction or quiet; and when we do, I hope it will be conducted with wisdom and vigour; for if we shew the same irresolute conduct in war, we have lately done in peace, if we seem afraid of hurting the enemy too much, like a senseless and spiritless animal fallen into a mire, the longer we struggle, the deeper we shall sink, and may, at last, come to be suffocated in the mud: whereas, by a bold and vigorous push at first we might have got through the quagmire, and thrown ourselves safe upon the opposite shore.

Having now shewn, that our right to a

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free navigation in the American seas, is one of those rights that is disputed by Spain, we must from thence conclude, it is one of those rights, that is by this Convention to be regulated by plenipotentiaries. That is to say, my Lords, it is to be given up by our plenipotentiaries; for if it be regulated, it must be destroyed: every regulation must be a restraint, and that which is put under a restraint, can in no sense be said to be free. The right Spain pretends to, of searching our ships in the open seas; and the right they pretend to, of prescribing to us what sort of goods we may carry in our ships, from one part of the British dominions to another, are rights which, I hope, are now in dispute between Spain and us; and are therefore rights that are referred to be regulated by our plenipotentiaries. My Lords, if we agree to regulate them, we grant them; and if we grant them under any regulations, we can no longer pretend to a free navigation or commerce in the American seas: therefore, my Lords, I must look upon this Article as an artful, or indirect surrender, (I shall not give it the name it deserves) of the most undoubted, and the most valuable rights of the people of Great Britain. The learned prelate who spoke some time ago, and the learned lord who spoke since, have, indeed, upon this subject, shewn themselves excellent advocates for Spain: I hope the Spanish plenipotentiaries will neither have so much eloquence, nor so many arguments; for, if they have, as I have no very great opinion of the capacity or qualifications of our own, I am afraid we shall come off with the worst. But their arguments in favour of Spain have been so fully answered by the noble duke that spoke after the reverend prelate, and the noble lord that spoke last but one, that I need not, if I could, add any thing to the answers they have made; therefore, I shall only wish, that our plenipotentiaries had been here to have heard them, in order that they might have learned how to defend the cause of their country against the most artful arguments that can be made use of by its enemies.

The only other right now in dispute between Spain and us, that seems to have been taken the least notice of in our late negociations, is our right to Georgia and Carolina. This, the noble lord who spoke last but two, has represented as a dispute about limits only; though every one knows, the Spaniards have lately begun to dispute our right to Georgia, and even to a great part of Carolina, particularly our right to the former, which they so peremptorily deny, that they would not allow the name to be so much as mentioned in this Convention; and as we have lately given that country the name of Georgia, not only by charter, but by authority of Parliament, our accepting of an Article about the regulation of limits, without mentioning our frontier province, will, I am afraid, be considered by the Spaniards as a surrender of that province. We may, if we will, give up Georgia; we may give up South-Carolina, and yet say, that the only dispute between Spain and us was about limits; because the Spaniards insisted, that the river Podie, upon the borders of North-Carolina, was the proper limit between Florida and Carolina; whereas we insisted, that the river Alatamaha was the proper limit. This, I say, might be called a dispute only about limits; but, if we should give up all the country lying between these two rivers, if we do not give up a right, I will say, we give up a very valuable possession.

I have now shewn, my Lords, that by this Convention we have obtained no reparation; and that, so far from obtaining future security, we seem to have, in some measure, given up every thing, upon which our future security can be founded. What, then, could induce us to accept of such an unsatisfactory, such a dishonourable preliminary? Which is a question that leads me of course to consider the present circumstances of Europe in general, and of this nation in particular. This, my Lords, I confess, is a subject which I touch on with reluctance; because, I am sure it can afford no great comfort, either to the speaker, or to the hearer. The state of our affairs, both at home and abroad, I shall grant, is dismal enough; but I am sorry to hear it made more dismal than it really is, for the sake of justifying an inglorious treaty, or a dastardly submission to the most provoking insults. The affairs of Europe are, indeed, at present, in a situation not very favourable for this kingdom; but what is this owing to? It is owing, my Lords, to a ridiculous notion we took up about fifteen years ago, of the overgrown power of the house of Austria: a notion that could be instilled into us by nothing but French counsels; and who were the chief propagators of this pernicious notion, we may well remember. This notion produced the treaty

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of Hanover; a treaty calculated for dissolving an alliance, which we ought to have cultivated and strengthened with all our art; because it could be prejudicial to no state in Europe but France alone. And this treaty of Hanover drove us into that long chain of negociations, treaties and expence, by which we not only re-united the two branches of the House of Bourbon, but contributed, at our own expence, to aggrandize them. Our fleets were employed to give principalities to one of the branches of that House: and now we are told, you must not vindicate your rights, or your honour, against one of these branches, because it may be assisted by the other.

My Lords, if this argument proves any thing, it proves too much; if we dare not revenge the affronts that are put upon us, nor repel the most unjust encroachments, for fear of France, we have nothing to do but lie down and die. It signifies nothing to put it off by patch-work, and expedients, for eight months longer. But this, my Lords, has been our method for several years. Like builders, that build a house to last only for the term of their lease, they build of rotten materials; and if they can, by patch-work, keep it up while they are in it, they do not care if it tumbles upon, and crushes the landlord under its ruins. A minister that has no credit or character abroad, nor any authority or affection among the people at home, must have recourse to patch-work and expedients. He can have no materials, but the rotten hearts of sycophants and time-servers; and these must be kept together, at a great expence, by temporary expedients: he neither can, nor will, think of building a solid and lasting fabric; but, I hope the nation will never allow him to build for them; or if they should be so unwise, as to allow him to erect a deceitful fabric, that they will pull it about his ears, before he has time to enclose them; for if they should allow him to go on, he may so environ them with ruins, that it will hardly be possible for them to find their way out.

I cannot easily believe, my Lords, that France will assist Spain in putting a yoke upon us, that may afterwards serve as a precedent for putting the same yoke upon themselves. The court of France is seldom so short in its politics. I am rather inclined to think, that the court of France will either endeavour to prevail on us to accept of sham treaties, and a precarious security, or, in case of a war, that they will endeavour to prevent our bringing it to a speedy issue, by a vigorous prosecution. I hope we shall take care not to be directed or duped by French counsels in either of these cases; for both will be destructive to this nation, both will serve the ends of France: a precarious peace, or a languid war, will keep up a contention between Spain and us; and such a contention will contribute greatly to establish the trade of France upon the ruins of the trade of this nation. But suppose these two nations should unite against us, and that we have negociated ourselves out of every alliance that can give us any assistance; yet still we must do the best we can. By a wise and vigorous conduct we might make both of them repent of their undertaking. They both depend greatly upon their trade and territories in the West Indies, where we may be masters if we will; and though they have both of late got great additions of power by our blunders, yet they must not pretend to prescribe to all the powers of Europe. Such an attempt would bring back to us those allies, whom we have detached by our late conduct; and in that case, a confederacy might soon be formed, that would be able to prescribe laws both to France and Spain, instead of receiving laws from them. The present aspect of affairs in Europe is, it is true, dismal enough; but yet it is not yet so dismal as it was in the beginning of the year 1702; and every one knows the glorious success of the confederacy that was then formed against France and Spain. But before we can expect any success either in war, or in forming confederacies, we must take care to unite our people amongst themselves, and to establish among them a confidence in the conduct of those that govern them; which, I am afraid, cannot be done by those who have spread disunion and distrust, not only amongst our allies abroad, but amongst our people at home.

Our trade with Spain, my Lords, was once a profitable trade to this nation: but, as France has lately got much into that trade, it is not near so profitable to us as it was. If it were not for our plantations, I believe we should be no great gainers upon the balance. We shall manage the war but ill, if we do not make more by a war with Spain, than we can do by a precarious and interrupted trade. But if it were otherwise, we cannot preserve our trade with that nation, or with any nation, but by preserving their esteem and their friendship; and these we must

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lose, if we submit tamely to their insults. These walls, my Lords, ought to put us in mind of the methods by which our ancestors preserved the trade, and vindicated the honour of the nation. These shew it was not by negociation, nor by lumping away the just demands of their country. I do not know, if there are any historical looms now at work, but I am afraid our Spithead and Carthagena expeditions would make as bad a figure in a piece of tapestry, as they will hereafter do in our histories.

But I hope, my Lords, we have no such looms at work: it would be for the honour of the nation, if no memorandum could be preserved of some of our past transactions; for we must alter our measures, before we can transmit to posterity what they can reflect on with satisfaction or emulation. If we had taken example from the conduct of a minister in a neighbouring country, our affairs, both at home and abroad, would have been in a very different situation: by encouraging trade and manufactures, by parsimony in public expence, by not engaging needlessly in any broils, and by vindicating the honour of his country with resolution, when there was occasion, he has rendered his country happy, and himself glorious. But we have followed contrary measures, and by so doing, have brought ourselves into that distress, which is now made the chief argument for our agreeing to this inglorious convention.

However, my Lords, I think the state of our affairs not yet so desperate as that it ought to be a prevailing argument upon this occasion. I hope I have shewn, that the state of affairs in Europe, is not so bad as it has been represented; and as to our domestic affairs, can they improve by submitting to daily insults, and to usurpations that must destroy our trade? In such circumstances, can we pay off our debts, can we preserve our sinking fund? No, my Lords, by the decay of our trade, our people must every day become poorer, and less numerous: this will diminish our consumption; and this again will of course diminish the annual produce of our taxes: we may, by a more rigorous collection, keep it up to its old value for some years; but it will soon begin to sink considerably every year; and this will at last annihilate our sinking fund. We cannot therefore propose to pay off our debt, unless we preserve our trade: nor can we pay any debt, if in time of peace we must be at the expence of war, which was our case last summer, and may probably be so for many summers to come; for if great armaments and military preparations were necessary to procure a preliminary convention, surely they will be as necessary for procuring a definitive treaty; therefore we must have a numerous army at land, and formidable squadrons, I mean in show, my Lords, at sea, till this treaty be concluded and ratified, which I am convinced will not be very speedily. In the mean time, as we have stipulated no suspension, our merchants will be plundered, and our seamen cruelly used by the Spanish guarda costas; which will of course render our people more and more discontented, and at last disaffected. Our people, it is true, may become more united; but it will be against our established government; and in that case, I hope, it will be allowed, that our domestic affairs would be in a worse condition than they are at present, and our government less able to carry on a foreign war, than our present government can be supposed to be.

Our domestic affairs may therefore, my Lords grow worse, but they cannot grow better, by our continuing in such a warlike peace as we have continued in for almost these 20 years; and we can expect no other sort of peace, till we retrieve our character, and establish our security, which, I think, can now be done no other way but by a vigorous and well-conducted war. But, suppose, my Lords, the state of affairs, both at home and abroad, were as dismal as it has been represented by those who have spoke in favour of this Convention, could this be any reason for our suing for, or agreeing to such a treaty? we were in no danger of being attacked by Spain: we were not so much as threatened with any such attack: we wanted only satisfaction and reparation for past injuries, and security against future; therefore we had no shadow of reason for agreeing to any treaty, that did not give us either the one or the other. By this we have obtained neither: we have absolutely released and given up the former; and we have rendered the latter more precarious than it was before. If we had made no treaty, no preliminary, Spain could only have continued to seize and confiscate such of our merchant-ships as they could meet with and overcome; and this they may still do, notwithstanding this treaty. What would have been the consequence? Suppose the nation at present absolutely unable to vindicate its rights, or its honour by force of

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arms, yet we might have waited with patience till an opportunity offered, without being exposed to suffer, in the mean time, more than we are now exposed to, notwithstanding this treaty; and when an opportunity offered for vindicating our rights and our honour by force of arms, we could then have insisted upon full reparation for all losses, all damage, all expence, which we cannot now do; because, by this treaty, we have given a general release.

I shall agree, my Lords, that this nation can never long want an opportunity for revenge against any nation in Europe. This is our happiness; but this ought to have been an argument against our granting such a generous release as we have granted by this preliminary. Besides, my Lords, it is an argument some people ought to be ashamed to mention, if they could be ashamed of any thing. It is almost 20 years since Spain set up every claim against us, they now pretend to: it is almost 20 years since they have been in a continued and uninterrupted course of insulting the nation, plundering our merchants, and mal-treating our seamen; and it is strange, that in so long a time, we could find no opportunity for revenge, against a nation, which no man will say is by itself an equal match for this. My Lords, we have had many opportunities; but we have neglected them all, or have been prevailed on by French counsels, or worse, to make use of none of them. We had one about seven years since, which it is amazing we neglected; and the fatal consequences of that neglect now begin to appear; but, I am afraid, they do not yet all appear: if they are not prevented by a change of measures in this kingdom, they may prove fatal to Europe as well as to England; and they cannot be prevented without an infinite expence to this nation, for which those who gave rise to them, ought, I hope they will, be made to answer.

This shews, my Lords, that we ought not to have been so ready, I shall not say rash, in approving of treaties or negociations, as we have been for several years past. We ought to approve of no treaty without maturely considering its terms and its consequences, as also the necessity there was for agreeing to it; for as every treaty is a new national obligation, no treaty ought to be agreed to, without some necessity for so doing. And, I am convinced, that no man who maturely considers the Treaty now before us, either in its terms, its consequences, or the necessity there was for our agreeing to it, will approve of it in any shape. An immediate war is not the necessary consequence of our refusing to approve of it, by putting a negative upon this motion. His Majesty may, nevertheless, wait for a more proper opportunity of declaring war. But if we should, in any shape, approve of this Treaty, the demands which we may justly make, and fully obtain, in case of a successful war, will thereby be greatly diminished; therefore, the motion which the noble lord has been pleased to make, will, I hope, be disagreed to.

The Lord *Hervey*:

My Lords; the noble lords who have spoke before me, have said so much, and have expressed their sentiments so clearly, in favour of the Convention, that I cannot propose to say any thing new, or to say any thing better, upon the subject. I shall, therefore, only take notice of some facts, which, I think, have been mistaken, or misrepresented, by those who have spoke upon the other side of the question; and this I shall do without attempting any turns of wit, or any thing of what may be called flowers of rhetoric. If I were capable of making the best use of such a way of speaking; if I were as great a wit, and as great an orator, as ever appeared in the assemblies of the ancient Greeks or Romans, the respect I have for your lordships, would prevent my making use of it in this House; because, such a method of speaking I take to be fit only for assemblies that are led by their passions, and not governed by their reason.

Last session of parliament, my Lords, we strengthened, it is true, the hands of the crown, and I hope the present, and every future session will do the same, when there is the like occasion; but we must remember, that though we strengthened the hands of the crown, yet at the same time we recommended peaceable measures; and therefore the power we then gave to the crown, was not to be made use of in any hostile manner, as long as there were hopes of obtaining satisfaction by amicable means. This was the intention, this was the advice of parliament; and according to this advice his Majesty applied to the court of Spain, to see what could be done by way of negociation. At the same time he made so far use of the powers granted him by parliament, as to fit out several squadrons, and send them to

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their proper stations, in order to convince the court of Spain, that we were ready to revenge, in case they should refuse, or unreasonably delay giving us satisfaction; but it would have been contrary to the advice of parliament, to have sent any of those fleets out, with instructions to begin hostilities. Such instructions might have been easily and speedily sent, as soon as his Majesty had found that nothing else would prevail; but to have given them such instructions, before he had made the least application for procuring justice and satisfaction in a peaceable way, would have been directly contrary to what was recommended to him by both Houses, last session of parliament.

The fleet that was sent to the Mediterranean, my Lords, was properly and sufficiently provided for answering all the ends that were intended by it, even though a war had broke out between the two nations; for, even in that case, it would have been ridiculous in us to have expended our strength, and put ourselves to a great charge, in attacking any of the Spanish dominions in Europe, where we could do them but little prejudice, and could reap no great advantage to ourselves. That fleet, therefore, could only be designed for protecting our own possessions and trade in that part of the world, for intercepting any Spanish ships that should happen to escape our fleet in the West-Indies, and for preventing any supplies being sent from Old Spain to any of their colonies or plantations in America; and for answering all these purposes, the fleet that was sent to the coasts of Spain, was sufficiently provided with every thing that was necessary.

The West-Indies, my Lords, is the part of the world, where, in case of a war, we could do the most harm to Spain, and the most good to ourselves; and there, if we can but prevent any supplies being sent from Old Spain, we shall stand in need of no land forces being sent from hence. Our own colonies, upon the continent and in the islands of America, would soon furnish us with land forces sufficient for attacking Spain by land in that quarter, if we send a squadron of men of war sufficient to protect them at sea. But suppose it should be necessary for us to send land forces from hence; it would not be proper, because of the climate, to send them thither, till we were just ready to enter upon action, which could not be our case the beginning of last summer; because his Majesty was to try what could be done by peaceable means, before commencing hostilities, either in the West-Indies or in Europe. For this reason, it was necessary to send a squadron to the West-Indies for protecting our trade in the mean time, and in order to take land forces on board, as soon as any could be raised in our colonies, in case a war had become necessary; but it would have been contrary to the plan that was prescribed by parliament, to have immediately begun hostilities; and therefore it was wrong to seize the Spanish register-ship, which the noble lord was pleased to mention, and it was right in our commodore to order her being restored.

My Lords, as the court of Spain could not be ignorant of the advice that was given to his Majesty by his parliament last session, and as his Majesty, to our happiness and his own honour, has always made the advice of his parliament the rule of his actions, they could not but suppose, that the squadrons we sent out were instructed not to begin hostilities, till farther orders; but such orders, they knew, might soon be sent; such orders, they knew, would be sent immediately, upon their refusing to give ear to a friendly accommodation of those disputes that subsisted between the two nations. This they were sensible of, and therefore, they not only appeared willing to do us justice, but have granted all that we could expect by a successful war; for even, in case of a successful war, we must at last have agreed to preliminaries, before peace could be restored, and by those preliminaries we could expect no more than a full satisfaction for our losses, and an agreement to have all other disputes adjusted by a definitive treaty.

But, my Lords, before I enter into the consideration of what we have got by peace, I must examine a little into what we could expect, or might have lost, by war; for though I have as great a confidence in the strength and courage of my country, as any man ought to have, yet I am not so sanguine, as to think, that we have victory chained to our chariot-wheel, or that we must be successful in every war we engage in; and therefore in all questions relating to war or peace, I think we ought to consider what we may lose, as well as what we may get, by a war. By a war with Spain, my Lords, we could not expect to make much by privateering, or by taking and making prize of their ships at sea. In case of a war with this nation, they would

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send no ships to sea, but small, light frigates, by way of privateers, for intercepting such of our merchant-ships as they found without, or straggling too far from a convoy; and though by taking such, we might prevent a loss and interruption in trade, yet we could not expect to reap any great benefit. Some people may, perhaps, imagine, that great advantages might be made by our intercepting their Plate fleets, or the ships that are employed in their trade with their settlements in America, because none but Spanish ships can be employed in that trade; but even this would be precarious, and might, in several shapes, be entirely prevented; for if they should open that trade to the French and Dutch, it is what those two nations would be glad to accept of: and we could not pretend to make prize of a French or Dutch ship, on account of her being bound to or from the Spanish settlements in America, no more than we could make prize of her on account of her being bound to or from any port in Spain: we could not so much as pretend to seize any treasure or goods (except contraband) she had on board, unless we could prove, that those goods, or that treasure, actually belonged to the king or subjects of Spain, which it would be impossible to do. By this method, the Spaniards might render it impossible for us to seize any of their treasure or effects, in its passage between New and Old Spain; and even without opening a trade to their settlements, they might almost as effectually do the same, by means of the Dutch island of Curasso, and the French settlements in Hispaniola, or the island of Martinique; for these places lie so near the Spanish settlements in America, that it would be easy for the Spaniards to carry their treasure and effects, in their own ships, to one or other of these places, and to take from thence what goods or merchandize they had occasion for, without running any great risk of being intercepted by our men of war, or privateers: and from these places the Spanish treasure and effects might be safely brought to Spain in French or Dutch bottoms, and in the name of French or Dutch merchants.

Thus, it appears, my Lords, that in case of a war with Spain, we could not expect any great advantage by privateering, or by any prizes we could take at sea; and at land we could make no conquests. No man will pretend that, if it were in our power, it would be our interest to conquer any of the Spanish dominions in Europe; at least, I am sure it would not be our interest to keep them, nor would it be our interest to give them to any other power in Europe. And as to their dominions in America, or the West Indies, we have expressly promised, by the treaty of Utrecht, that they shall be preserved whole and entire to the present king of Spain, and his successors; so that by endeavouring to conquer any of them, we should not only commit a breach of that treaty, but likewise we should probably raise up a confederacy in Europe against us; for none of the powers of Europe would chuse to see us masters of the whole, or any part of the Spanish West Indies.

Therefore, my Lords, the only method by which we could propose to get any advantage by a war with Spain, would be by making inroads upon, and plundering their settlements in America; and this we should find much more difficult than it was formerly. Their sea ports, and inland towns in that part of the world, are now better fortified, and better provided with every thing necessary for making a stout defence, than ever they were heretofore; and yet, during the last war, I believe it cannot be said, that the nation got much by any inroads that were made upon them. The truth is, we never attempted to make any considerable inroads, or any conquests, in that part of the world, because of the difficulty and expence of transporting a land army thither; and because we knew the climate to be very unwholsome for any land army we could send thither.

Having thus shewn, my Lords, that we cannot expect any great advantage from a war with Spain, let us next consider the dangers we would be exposed to. I shall be far from saying, upon this occasion, or upon any occasion, that we must not vindicate our rights, or our honour, against France or Spain, for fear of their joining together against us; but this I may venture to say, that when there is a probability of their joining together against us, at a time when the affairs of Europe are in such a situation, that we can form no confederacy against them, at a time when, if we engage in war, we must stand single and alone against these two powerful nations; I say, my Lords, at such a time it would be prudent in us to suspend our vengeance, if possible, till a more proper opportunity should offer; and this, I am afraid, is our case at present. If France should join with Spain against us, we would be exposed to many dangers, and it

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would be difficult to guard against them all. We are, it is true, at present, superior to both at sea; but as France has great numbers of seamen, they would soon get ships of war, if they were to be at no expence in defending themselves at land; so that they might soon rig out a powerful squadron. On the other hand, as we are liable to be attacked in several parts of the world, we must divide our naval force: we must send squadrons to different points of the compass, and every one of these squadrons must be superior to any that France and Spain can jointly fit out against us. As we have the misfortune to have a party amongst ourselves disaffected to our present establishment, a party much more considerable than some people seem willing to believe, we must keep a very powerful squadron at home, for preventing its being in the power of our enemies to invade us. As we have a great trade and valuable possessions in the Mediterranean, we must keep a powerful squadron in that sea, for protecting our trade and our possessions in that part of the world. And as our plantations, especially our sugar islands, are of great consequence to our trade, and lie much exposed to be invaded, and perhaps destroyed, we must keep a powerful squadron in the American seas for their protection. To which I must add, that considering the alliance lately formed between France and Sweden, we might, perhaps, find ourselves under a necessity of sending a powerful squadron into the Baltic, for the defence of our allies, or for preventing an invasion from that quarter. And notwithstanding the great opinion we justly have of our naval force, and of the bravery of our seamen, I hope I shall be excused, if I even express some diffidence of our being able to send a squadron to each of these places, sufficient for encountering the united force of France and Spain, perhaps the united force of France, Spain and Sweden.

But suppose, my Lords, that France should remain quiet, and no way interfere openly in the war between Spain and us: suppose no power in Europe should assist Spain in the war against us, yet we could not immediately reduce Spain to a necessity of complying with our just demands. The war between us might last for several years; and while it lasted, the French would have a great advantage over us in every branch of trade we are, or can be, concerned in. Though the Spaniards have not many seamen of their own, yet in case of a war with this nation, they would be in no want of seamen for fitting out a great number of privateers against us: French, Dutch, and perhaps some of our own seamen, would engage in their service for that purpose: so that the Mediterranean, the American, the British, and in short, all the seas where we have any trade, would be full of privateers under Spanish colours. This would raise the price of insurance upon British ships higher than upon the ships of any other nation in Europe; and our merchant ships would be often put to a great expence and delay, by being obliged to wait for a convoy; which would considerably enhance the charge upon all manufactures or merchandize, sent by our own shipping to foreign markets. Let us consider, my Lords, that the French already under-sell us in most of the manufactures we deal in, and that the freight of Hamburgh ships, and some others, is now cheaper than that of British: if we consider this, we shall easily see the consequence, if we should add a new charge to the price of our manufactures at foreign markets, and make it more unsafe, or more expensive, to employ British ships, than those of any other nation, by engaging in war, when all the other trading nations of Europe are at peace: we should export no manufactures, no merchandize, at least we should export none in our own shipping: and what would then become of our trade and navigation?

This, my Lords, would be the consequence of a long war between the two nations, with respect to ourselves; and with respect to Spain, it would probably be entirely ruined. We might, perhaps, at last, force them to do us all the justice in their power; but they would be so exhausted with the losses and expences of the war, that it would not be in their power to make any satisfaction for the damage they have already done us, or might do, during the war, and much less for the expences we have been, or might be put to. Now, my Lords, though we have, at present, good reason to be offended with Spain, though we have good reason to insist upon satisfaction and security, yet it is not our interest to weaken the power of that nation; we ought rather to support it, as a balance against the power of France; for though the court of Spain may, perhaps, be at present too much swayed by French counsels, it will not always, it cannot long be so. The interests of France and Spain are as incompatible, as the interests of

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France and this kingdom; and therefore, as soon as the court of Spain begins to be swayed by true Spanish counsels, which some accidents may soon bring about, we may reasonably expect to have that nation for one of our best and firmest allies; and whenever that happens, they will gladly give us all the satisfaction and security we can desire, in order to gain our friendship, and to restore a mutual confidence between the two nations.

Both the circumstances of Europe, and the circumstances of Spain, are now, my Lords, very different from what they were in the reign of queen Elizabeth, or in the time of Oliver Cromwell. In queen Elizabeth's reign, Spain was the only formidable power in Europe, and we had as much reason, as any other of her neighbours, to endeavour to reduce her power. For this purpose, queen Elizabeth took the wisest course that could be taken, by encouraging and supporting the civil war in the Netherlands, by which means, she at last enabled the Seven United Provinces to throw off the yoke of Spain; and the whole power of Spain being applied towards supporting their dominion over the Netherlands, they could neither spare money for fortifying their settlements in America, nor could they send any regular troops thither for defending them; so that even our private adventurers had great success, and often got rich booties by privateering, and by incursions upon those settlements; for, as there was no good correspondence between France and Spain, and an open war between Spain and Holland, the Spaniards could not make use either of Dutch or French vessels for carrying on their trade with their settlements in America; and beside, as the French were then involved in civil wars, they durst not venture to disoblige England, by assisting Spain, either openly, or by underhand dealings.

In Oliver Cromwell's time, my Lords, we know that the Spaniards were engaged in a heavy war with France, which rendered them unable to provide for the security of their trade and possessions in America; and though, by our taking part with France in that war, we got the island of Jamaica, which was a valuable acquisition, yet I must think, it would have been lucky for this nation, if Oliver had joined with Spain against France, instead of joining with France against Spain; for it was his fatal union with France, that laid the foundation of the excessive power of that kingdom, which has since cost this nation so much blood, and so many millions. And now, my Lords, with regard to both these wars, I must observe, that notwithstanding our great successes against Spain in queen Elizabeth's reign, notwithstanding our great successes against Spain in Oliver's time, yet that nation was not easily or soon reduced to comply with such terms as we thought reasonable; for both queen Elizabeth and Oliver Cromwell left the war to be put an end to by their successors.

Considering, therefore, my Lords, the little advantage we can reap, and the great dangers we may be exposed to, by a war with Spain, I must think it would be not only unchristian, but impolitic in us to do them any real injuries, or to insist upon unreasonable terms for accommodating those differences, that must unavoidably, sometimes, arise between the two nations. I shall not say, that either the precepts of Christianity, or the maxims of sound politics, oblige us to heap coals of fire upon their heads, by returning good for evil; but this I will say, that we ought at all times, and especially the present, to be more ready to forgive Spain than any other nation in Europe; and consequently, we ought to insist less upon the point of honour, and accept of a less ample satisfaction, with regard to any injuries that may be done us by the Spaniards, than with regard to the injuries we may receive from any other nation in the world. Even in private life, a man would sooner and more easily pardon an injury done him by a relation or old friend, than an injury done him by an utter stranger, or by one with whom he never had, nor ever expected to have, any cordial friendship.

This, my Lords, leads me, of course, to consider what we have got by the Convention now under our consideration; and here, my Lords, I must say, I am surprized to hear it affirmed, that we have got no more by this Convention, than what the king of Spain had before allowed to be due. To support this assertion, we have been told, that the Spaniards had not one shilling to demand of us; and that the 95,000*l.* was not to be paid by them, unless our South Sea Company first paid them or made them a present, as it was called, of 68,000*l.* but both these facts must appear to have been very much misrepresented. The Spaniards certainly made a very great demand upon us: a demand that far exceeded 60,000*l.* They

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demanded full reparation for all the damage we did them in the year 1718, which, according to their way of reckoning, would have amounted to more than ten times 60,000*l.* for they said, that though his Catholic majesty had agreed, by the treaty in 1721, to accept of restitution of the ships we had actually taken from him, yet he had not by that, or any other treaty, given up his claim for the other damages we had done him; and that, if he had, he was not obliged to stand to it, because we had not complied with the restitution stipulated by that treaty. Whether this demand was just or not, is what I shall not take upon me to determine; but it was certainly made, and strongly insisted on by Spain; and if we got them to agree to reduce it to 60,000*l.* I must think it was prudent in us to allow them, by way of a friendly accommodation, to deduct that sum out of what was due to our merchants, on account of the depredations committed by their subjects on the American seas. It is true, we do not receive this sum in ready money, but, I think, it is more beneficial to us than if we did; because, by allowing it to be deducted, we get free of a demand which amounted to a great deal more, and which would have been a perpetual bone of contention between us and a people with whom we ought, if possible, to cultivate a good correspondence.

Now, my Lords, with regard to the 68,000*l.* claimed by Spain from our South Sea Company, I cannot comprehend how any one can imagine, that the court of Spain is resolved not to pay the 95,000*l.* stipulated by this Convention, unless this 68,000*l.* be first paid to them by our Company. I am sure there is no such condition in the Convention. Our South Sea Company have nothing to do with the Convention; all accounts and differences between them and the crown of Spain being expressly excepted, in that very Article by which the 95,000*l.* is stipulated, and the Company not so much as once mentioned in any other part of the treaty. Even his Catholic majesty's declaration or protestation, does not subject the payment of the 95,000*l.* to any such condition; for all that was meant by that protestation was, to preserve to his Catholic majesty his right to suspend the Assiento contract, in case the company should fail in performing their part of that contract; which right was established in his Catholic majesty, and his sucessors, not only by the very nature of the contract itself, but by the express words of the conclusion or ratification of that contract; his Catholic majesty's words being, "And I promise and assure, upon my faith and royal word, that, provided the Company of England perform this contract on their part, so far as concerns them, and as they are obliged, I will perform it on my part."

Thus it appears, my Lords, that the payment of the 95,000*l.* is not by this Convention, nor even by the king of Spain's protestation, to be delayed, much less denied, on account of our South Sea Company's not paying the 68,000*l.* claimed from them by Spain. Therefore it is not our business, upon the present occasion, to enquire whether that claim be just or no. The company may have greater claims upon the crown of Spain, and yet Spain may think themselves justified in not admitting of compensation; for as the claim the company has upon the crown of Spain, proceeds from the seizure of their effects in the years 1718 and 1727, which have not yet, according to treaties, been fully restored; and as the court of Spain's claim upon the company proceeds entirely from the Assiento trade, there may, from the very nature of compensation, be some reason not to admit of it in this case; because the king of Spain may alledge, that by restoring the very effects that were seized, he may still free himself from the payment of any money, or he may say, that what is due by him on that account, is not yet fully settled and ascertained; and that therefore he cannot allow it in compensation of a nett sum, which, he says, the company has confessed to be due to him. My Lords, I do not say, that any of these arguments are just, I only mention them to shew, that none of our disputes with Spain are so clear, or so easily adjusted, as some have been pleased to represent.

I hope it will now appear to your lordships, that we are, by this Convention, to receive the full sum of 95,000*l.* from Spain, and that to this sum we ought to add the 60,000*l.* we have allowed, for which Spain has given up a demand she had upon us of a much larger extent; therefore we must allow, that the reparation granted us by this Convention for our losses before Dec. 10, 1737, amounts to the full sum of 155,000*l.* which is more than 15*s.* in the pound of what we really lost; and before I heard of this treaty, I should have thought him a very unreasonable merchant, and a very bad countryman, that had told me, he

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would not willingly accept of 15*s.* in the pound in full of what he had lost, rather than see his country involved in a war against Spain, and at such a juncture. I say, my Lords, that 155,000*l.* the sum we are to receive by way of reparation, amounts to more than 15*s.* in the pound upon our real loss: because our own commissaries did not value it at more than 200,000*l.* and I have heard no good reason given, why we should discredit their report, nor do I believe, from the character I have heard of the gentlemen, that they would have received, much less obeyed, any instructions, by which they were enjoined not to admit of those demands, which appeared to them to be reasonable and just: the Spaniards, we know, make heavy complaints against them, for having admitted of the most extravagant claims, and for refusing no claim that was laid before them; so that, like good arbitrators, they are blamed by both sides, which is seldom a sign of injustice. As for the five ships mentioned in the 4th article of this Convention, they were included in the 200,000*l.* at which our losses were valued by our commissaries: and therefore, if any part of any of them has been restored, the value ought in justice to be deducted out of the 95,000*l.* to be paid to us, by Spain, for our losses in general.

We are so far, my Lords, from having obtained no reparation, that, I think, I may now venture to say, we have obtained by this Convention, a more ample reparation than was ever obtained by this nation in any former preliminary treaty. Even in Oliver Cromwell's time, by the treaty of peace, after the war we then had with the Dutch, he accepted, by way of preliminary, of an immediate payment of 10,000*l.* in part of satisfaction for a great number of British ships that had been seized and detained in the dominions of the king of Denmark. This, my Lords, was all he insisted on by the treaty, though it was not near equal to the loss we had sustained, the rest being referred to be settled by commissaries respectively appointed by the two republics; and yet it must be allowed, that no man ever insisted more strenuously upon the rights and privileges of his country, and that he had the good fortune to live at a time, when none of our neighbours were in any tolerable condition to engage in war, or to form a confederacy against us.

Having now shewn, my Lords, that we have got, by this Convention, as ample a satisfaction for past losses as any reasonable man could expect, I shall beg leave to consider, as briefly as I can, what is stipulated, with regard to our future security; and upon this head I shall first observe, that from the nature of the dispute between Spain and us, we could not expect that it was possible to provide, properly or fully, for our future security by preliminary articles. The Spaniards do not pretend to deny our right to a free navigation upon the open seas of America; but the dispute between us is, what shall be reckoned the open seas of America. They say, that their coasts cannot be called open sea; and that therefore, if any one of our ships come upon their coasts without necessity, they have a right to search her, in order to see whether she has been concerned in any illicit trade with their settlements: They say farther, that their coasts in America, as well as their coasts in Europe, are within their own dominions: that they have a power to make what regulations they please within their own dominions; and that therefore, they have a power to regulate what shall be deemed testimonies of a ship's having been concerned in an illicit trade, if such ship be found upon their coast. Now, my Lords, that every nation has a sort of a right to, and a dominion over, what may properly be called their own coasts, is what, I believe, no man that understands any thing of the law of nations will deny; but the question is, how far out at sea these coasts shall extend; and as this is a question that has not yet been determined by any treaty between Spain and us, it must be very particularly enquired into, before any settlement can be made by a new treaty. There may be reasons for confining the coast within much narrower bounds in some seas than in others. In those seas, where the commmon course of navigation lies very near the shore, the coast of the neighbouring country must be very much confined; and in those seas, where the common course of navigation never approaches near the shore, the neighbouring country, or state, may be allowed to extend their coasts to a greater distance at sea.

These considerations, my Lords, shew how difficult it will be to regulate what the Spaniards may be allowed to call their coasts in the American seas, what may be called a necessity for a ship's approaching their coasts, and what may be called proper testimonies, or proofs of a ship's having

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been concerned in an illicit trade; and no man who considered these difficulties could expect, that they could be removed in a short time, or by a preliminary treaty. The negociators on both sides will certainly be obliged to send to the West Indies, in order to have proper information from those, who are perfectly acquainted with the navigation in those seas; and both may, perhaps, be obliged to send a second time, in order to have those difficulties answered, or removed, that may be started upon the first conferences. It is not our right to a free navigation in the open seas of America: it is not our right to carry in our ships what goods we please from one part of his Majesty's dominions to the other: it is the right the Spaniards have to take methods, and to prescribe rules, within their own dominions, that is to say, upon their own coasts, for preventing an illicit trade with their settlements in America, that is to be regulated by the plenipotentiaries respectively named by this Convention: and in this, our plenipotentiaries, if they were inclined, can do us no injury; because the regulations they agree to can be of no force, till they are ratified by his Majesty.

Whatever some lords may think of the distinction between a right and the enjoyment of that right, however incomprehensible they may think it, I must look on it as a just and a proper distinction; for a man may have a right to an estate, and yet his enjoyment of that right may be regulated, or even restrained, by some right or privileges granted to another. We have a right to a free navigation in the seas of America; but we have, by the treaty in 1670, granted the Spaniards an exclusive right to the trade with their own settlements in that part of the world; and therefore we have, according to an established maxim in law, granted them every thing that is necessary for the enjoyment of that exclusive right. For this purpose they say, that they must search such foreign ships as approach their coasts without any necessity, and must make them liable to confiscation, if any thing should be found on board, that is the proper produce of their settlements; because, without this, it would be impossible for them to exclude foreigners from carrying on a trade with their settlements; and if this privilege should be allowed them, as a consequence of the exclusive right we have agreed to by the treaty in 1670, it would be a sort of restraint upon our enjoyment of the right we have to a free navigation in the seas of America. I am far from granting, my Lords, that there is any foundation for this pretence. I do not think, that such a privilege is absolutely necessary for enabling them to enjoy their exclusive right: but if it were, they would have some reason for insisting upon it; and whether it be so or not, is a question that could not be enquired into in a short time, and consequently could not be determined by a preliminary article.

These are the disputes, my Lords, upon which our future security depends; and as these disputes are of such a nature that they could not be settled in a short time, therefore we could not expect, that our future security could be provided for any other way than it is by this preliminary Convention; nor could we in this case stipulate any suspension: we could not stipulate, that they should suspend searching our ships upon the high seas; because it is what they never pretended to: such a stipulation would really have been a sort of acknowledgment, that our right to a free navigation on the open seas of America was a disputable point; and if he had desired them to suspend taking those measures, which they think absolutely necessary for preventing an illicit trade, they would have looked on it as the demand of a privilege to carry on such a trade, till the definitive treaty should be concluded, which is a demand we could not expect they would grant. Besides, we had no occasion to demand any suspension in this case; because during the eight months in which this affair is to be finally determined, we shall have a squadron in the West-Indies, that will be sufficient to protect our trade, against any injustice that can be committed by their guarda costas.

As for the Article that relates to settling limits between Florida and Carolina, I am surprized, my Lords, to hear it found fault with. We have got more by that article, than we could ever before get by any treaty between us and Spain; for by that article, we have got them to acknowledge by name, our right to Carolina; and though we now give the name of Georgia to the Southern parts of Carolina, yet as Georgia was formerly a part of that country to which, in general, we gave the name of Carolina, I think this article implies an acknowledgment of our right to Georgia, and shews that the Spaniards do not dispute with us our rights to that province, but only the limits between what we now

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call Georgia, and what they and we call Florida. They may perhaps pretend, that we have extended our settlements in Georgia too much towards the Southward, and, by that means, have encroached upon their territories in Florida; but from this article it cannot so much as be presumed, that they intend to dispute our having a right to any part of Georgia; and if they should, our plenipotentiaries may refuse to treat with them upon such terms; for by this article they are laid under no obligation to do so. Here, indeed, the very nature of the dispute made a suspension necessary; but I must observe, that this suspension is mutual; for the Spaniards are obliged to suspend increasing their fortifications, or taking any new posts in Florida, as much as we are in Carolina; and as limits between frontier provinces are generally referred to be settled by commissaries, after a definitive treaty is concluded, I am sure no fault can be found with referring the limits between these two provinces to be settled by plenipotentiaries, named and appointed by a preliminary.

I have now shewn, I hope, my Lords, that by this Convention we have got all we could reasonably expect by a preliminary; from whence it must be presumed, I think, that we are in a fair way of getting all we can reasonably demand, by the solemn treaty that is to be concluded in pursuance of this preliminary, within the space of eight months, which is the shortest time that could be given for settling those disputes, which still subsist between us and Spain. Therefore, if the affairs of Europe were in as favourable a situation as we could wish, if our own circumstances were as happy as we could desire, it would have been imprudent in us to have begun hostilities, when we have found the court of Spain so well inclined to give us all reasonable satisfaction: his Majesty would have acted contrary to the advice given him last session by his parliament, if he had refused to accept of such a preliminary Convention. By commencing hostilities we might, perhaps, have added to our glory, and might have given more satisfaction to those who delight in strife and contention, as well as to men of desperate fortunes, who want to fish in troubled waters; but these sorts of men are such as no wise government will endeavour to satisfy; and every one knows, that the happiness of a country is distinct from, and often inconsistent with its glory. The late king of Sweden, by seeking his own glory in war, raised it to a very high pitch; but he ruined, he dispeopled his country; and if we follow the example of cardinal Fleuri (for I think I may name him) which the noble lord that spoke last has been pleased to recommend to us, we shall never go to war without an absolute necessity; for he has procured more happiness for his country, and acquired more glory to himself, than the late French monarch did by all his wars, and by all the tapestry or historical looms he set to work, assisted by an infinite number of poems, panegyrics, and pieces of painting, which he procured at a vast public expence, for celebrating the heroic actions he performed by his generals and his armies; for whatever share he might claim in the glory, I think he took care never to have any share in the danger.

I say, my Lords, if the affairs of Europe, as well as our domestic affairs, had been in the best situation, it would have been imprudent in us to have engaged in war, especially against Spain, when we found ourselves in so fair a way of obtaining all we could desire by peaceable means; but, as neither our own affairs, nor the affairs of Europe, can be said to be at present in a very favourable situation, it was certainly our business to avoid engaging in war, at this juncture, if possible. What this situation may be owing to, I shall not take upon me to determine; but, with respect to our domestic affairs, I am sure, the situation they are in is not owing to any late mismanagement here at home. The debts and the taxes we are at present loaded with, are known to be the unhappy relics of the last heavy war we were engaged in against France and Spain. We have never since engaged in any war, we have been put to no expence, but what has been authorized or approved by parliament, as being absolutely necessary for the current service; therefore if we have paid off but a small part of the debt we incurred during that war, it can proceed from no mismanagement, but from a tender regard to the people, which prevented our loading them with more taxes than were absolutely necessary, for paying the interest growing due to the creditors of the public, and for defraying that expence which the parliament, from year to year, thought necessary for the public service.

And with regard to the present situation of affairs in Europe, it may, for what I know, my Lords, be owning to the ambition of one court, and the pride and ob-

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stinacy of another; but, I am sure, it can be no way justly imputed to the bad conduct of any of those who are now, or have lately been, employed in the administration of our public affairs. Our ministers are neither the masters nor the directors of the councils of foreign princes or states; and therefore, cannot be justly made to account for their actions or behaviour. They may be made to account for their own; but, with regard even to their own behaviour, we ought not to judge of their measures by the event, we ought to consider them in the light they appeared in when taken: it is easy to find fault with past measures, when cross accidents happen that could not be then foreseen, or when time clears up facts that could not be then discovered; but, whatever our late measures may have been with regard to foreign affairs, those who advised them have had the good fortune to have every step of their conduct approved of by parliament. Even the late treaty of Hanover, which some people now pretend to find fault with, was approved by parliament: and I still think it deserved the approbation it met with; for, by the treaty between the emperor and Spain in 1725, they had certainly both formed projects against the trade or the possessions of this nation: the emperor had formed a project of establishing the trade of Flanders upon the ruins of the trade of this kingdom; and the court of Spain had formed a project for wresting from us the important fortresses of Gibraltar and Port-mahon. Against these projects, the best, indeed the only measure we could take, was the defensive alliance we entered into with France, by the treaty of Hanover; and this accordingly put an end to the ambitious projects both of the Emperor and Spain: or, at least, the measures we took in pursuance of that treaty, prevented their being able to carry any of them into execution. The measures we took upon the breaking out of the late war between France and the emperor, had likewise the good fortune to be authorized or approved by parliament, and, I think, with great reason. We had then no demands either upon France and Spain, at least, none that either of them had expressly refused to comply with: therefore, from our own interest, we had no call to engage in that war, unless it had been pushed so far as to endanger the balance of power in Europe; and surely, we are not obliged to support the court of Vienna in all the ambitious projects they may form, nor were we obliged to assist them in a war they had brought upon themselves, by endeavouring to prescribe rules to an independent kingdom, in the election of its sovereign.

Thus, my Lords, I have stated in a proper light, those facts which, I think, have been very much mistaken by some lords who have spoken in this debate; and I have endeavoured to do it with that plainness and simplicity which becometh the dignity of this House. If wit and eloquence could have any weight with your lordships, those who have spoke upon the other side of the question could not hnve failed of persuading; but I think, it is a bad compliment to your lordships' judgment, to attempt to persuade by such means: I know your lordships' caution and penetration, and therefore, if I could, I should not attempt to impose upon your judgment by wit or eloquence, especially in the present question; because the side on which I speak stands in need of none of the arts of persuasion: if it be viewed in its true and natural light, like truth, it must be irresistible.

Lord *Bathurst:*

My Lords; in what I have to offer to your lordships upon the subject now under our consideration, I shall not so much as attempt any sort of rhetorical stile: I have indeed, I think, much less occasion for it than the noble lord who spoke last; for facts speak themselves, and all the facts that relate to the present question, are so plainly against that side which his lordship seemed to favour, that he must pardon me, if I think, he could have said but very little, if he had made no use of any of the arts of eloquence. If it were possible to imagine that wit or eloquence could have any influence upon this House, I should have but little encouragement to think myself capable of either; for in all the important questions that have happened, almost ever since I have had a seat here, the majority has generally been against that side of the question, on which I had the misfortune to speak; yet I always thought I had reasen on my side; but as now I think I have a great deal more reason than ever I had upon any former occasion, I hope to meet with a different fate. That there are assemblies which are led by their passions, and that in such assemblies only the arts of eloquence can be of service, I shall readily grant: but I must observe, that as some passions are to be led by the sense of

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hearing, there are others which are to be led by the sense of feeling alone: and, if I were not fully convinced, that the members of this assembly are governed by reason, and by nothing else, I should never attempt to speak, because I know myself as little capable of touching those passions that are to be led by feeling, as I am of touching those that are to be led by hearing.

My Lords, when we granted those extraordinary powers that were given last session to the crown, I believe none of your lordships meant, I am sure I did not imagine, that, in consequence of that grant, the nation was to be put to any extraordinary expence, as long as there were the least hopes left of an accommodation. These hopes, I knew, might have been determined by the return of one courier: They ought to have been so, considering how far the season of the year was advanced, and the danger our navigation and commerce lay exposed to in the mean time. It was only sending orders by a courier to our minister at the court of Spain, to have put two or three plain questions to that court, by way of Ultimatum, and to have insisted on a speedy and categorical answer. This, I knew, might have been done in three or four weeks: and therefore, when I heard of our great naval preparations, I expected nothing but war: I expected that some of my honest neighbours in the country would be relieved from the burden of quartering soldiers; because I made no doubt, but that a large body of our troops would be embarked on board our fleet, and sent where they might be of some service to their country. I little thought that this session of parliament would have opened with a sort of treaty or convention, that gives us neither war nor peace, nor any thing, in my opinion, but shame and confusion.

Indeed, when I heard our squadrons were sailed, and found by the complaints of my neighbours, that our troops remained, I cannot say quiet, in their quarters, I began to suspect some new Carthagena expedition. I began to fear that our sham war would end in a sham peace; and now I find my fears were not without foundation. But, my Lords, if we had obtained as honourable a treaty as ever was concluded by this or any nation, I would, nevertheless, have ventured to have said, that the expence we put ourselves to, the squadrons we fitted out, had no share in obtaining it; for surely those fleets, those warlike preparations, that can do no considerable harm to an enemy in case of a war, can have no influence in obtaining a peace. Our squadron sent to the Mediterranean was, it seems, designed to be a harmless squadron; and that which was sent to the West-Indies, it is allowed, must have been so, till they got some land-forces on board, for which no preparations were made, either at home, or in our plantations. But we are told, that land forces might soon have been raised in our plantations, which is a fact I very much doubt of: we have, as yet, but few spare hands in any of our plantations, and to have taken men from that valuable labour, in which our planters and their servants are always employed, would have been a great loss to our trade. It would have been much better to have sent eight or ten thousand of the idle fellows we have at home, to some of our most healthful plantations, in order to have been there ready at a call; for the difference of the climate is so far from being an argument against, that it is a strong argument for sending them thither some months before we have use for them, that they may have time to be seasoned to the climate, and to recover from the fatigues of a long voyage, before they are sent upon any expedition against an enemy.

This, my Lords, would have had a greater influence upon the Court of Spain, than all the men of war we fitted out; for I must think it was a very extraordinary sort of management, to fit out above a hundred sail of men of war, against a nation that cannot send thirty capital ships to sea. Therefore, if the Court of Spain was to be frightened or threatened into terms, we ought to have sent out regiments of foot, instead of most of the men of war that were fitted out; and if that Court was not to be threatened, there was no occasion for putting ourselves to any expence, till a war was actually resolved on. As they have but few ships at sea, and those they have, hard to be met with in such a wide ocean as that between Spain and America, our squadrons, without a land-force along with them, can do them little or no prejudice; and suppose we could have raised a sufficient land-force in our plantations, it will, I hope, be allowed, that, after we had sent orders for raising that land-force, we might have fitted out a squadron here at home, and sent it thither, time enough for taking those land-forces on board, before they could have been ready to embark. Therefore we had

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as little occasion for putting ourselves to the expence of naval preparations, as we had for putting ourselves to the expence of raising land-forces, till we had got a final answer from Spain; and without threatening to invade some of their territories, in Europe or America, with a land-army, our numerous squadrons could now as little persuade them to agree to our terms, as Hosier's squadron could formerly persuade them to deliver the effects of their galleons into his hands.

I am convinced, my Lords, that the squadrons we sent out last summer, like some others we have upon former occasions fitted out, gave all Europe an occasion of mirth, instead of giving the Spaniards an occasion of fear. The Court of Spain must mistake our power, or despise our management, otherwise they would not have dared to have offered such a preliminary treaty, as we have stopped to accept of. Preliminaries are sometimes agreed on by nations engaged in war, before they can conclude a solemn and definitive treaty of peace; but by such preliminaries the most material points are always settled, and some pledges are generally given for performance of Articles. By these preliminaries no one material point is settled; the only one that is settled is, that relating to the damages we have sustained, and that is settled by our agreeing to give a general release, without receiving one shilling consideration. Can this be called a treaty? To me it seems as if our minister had presented M. de la Quadra with a Carte Blanche, a sheet of clean paper, and desired he would write what he pleased, because it was necessary for us to have a treaty of some kind or other.

My Lords, I shall grant that, before we resolve on a war, we ought to consider what we may lose, as well as what we may get; but, I hope, it will be allowed, that before we conclude a peace, or any treaty for preventing a war, we ought to consider the dangers we may be exposed to by submitting to an infamous peace, as well as the dangers we may be exposed to by engaging in a just and honourable war. It seems now to become a fashionable doctrine amongst us, that a trading nation ought to be cautious of engaging in a war. My Lords, it is directly the contrary: no nation ought to go to war without provocation; but of all nations in the world, a nation engaged in foreign trade ought to be the most jealous of its honour and privileges, and therefore the most cautious of submitting to any thing that may look like an infamous peace. The nature of its trade obliges many of its people to travel, and some of them to live in foreign countries: they must there meet with justice and respect, otherwise they neither will travel nor live, nor can they carry on any trade. But can they expect to meet with justice, or even with common civility, if the nation to which they belong be generally despised and contemned, which it must be, if it submits to an infamous peace? This will be our case, if we should be so fond of peace as to avoid going to war, when we have a just occasion. If we do not vindicate our honour, and assert the rights and privileges of our people, in all parts of the world where they may have occasion to go, we must give up our foreign trade; for no British subject will go abroad to take care of it, if he finds himself insulted and abused in every country he comes to. Our own colonies will desert us: if we will not protect them, they must seek for protection somewhere else. Therefore, if we have a mind to preserve our trade or our navigation, we must take care not to be insulted: we must reassume one of our ancient mottos; 'nemo me impune lacesset,' must be the word in every mouth, and the resolution of every assembly, within the British dominions.

I shall not pretend to say, my Lords, that we have victory chained to our chariot-wheel, yet I may say, what from all our histories will appear, that in the wars we have been engaged in, we have always come off with honour, when our affairs were under a wise administration. In a war with Spain, if we judge from experience, we have more to hope than to fear. We may do them great damage, and gain considerable advantages to ourselves, even by privateering, or seizing their ships at sea. They cannot subsist, they cannot defray the expences of their civil government, much less support the charge of a heavy war, without having their treasure brought home from America. If they bring it home in Galleons or Flotas, we may intercept it by our squadrons: if they bring it home in single ships, we shall intercept many of them by our privateers or small cruizers. They cannot bring it home either in French or Dutch ships; because by the sixth Article of the treaty of Utrecht between France and us, the king of France is expressly obliged not to ac-

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cept of any other usage of navigation to Spain, and the Spanish Indies, than what was practised there in the reign of king Charles 2, of Spain, or than what shall likewise be fully given and granted at the same time, to other nations and people concerned in trade. Therefore the Spaniards could not lay the trade to their settlements in America open to the French, at least the French could not accept of it; and if the Dutch should, they would be opposed by France as well as us, which is an opposition they would not, I believe, chuse to struggle with. And as for the Spaniards carrying on a correspondence with the Dutch at Curassao, or the French at Hispaniola or Martinique, the course of navigation between their settlements upon the continent and these islands, is so much confined, that we might intercept every one of their ships, either by our men of war or privateers. Besides, my Lords, these expedients, or any expedient that could be contrived, would lay the whole Spanish nation under such distresses and difficulties, that they would be glad to accept of peace upon reasonable terms.

Thus, my Lords, we might not only reap advantage by distressing them at sea, but we might reap still greater advantages, and reduce them to greater difficulties, by attacking them at land. It would not, it is true, be our interest to attempt making any conquests upon the continent of Old Spain; but by having a squadron with 5 or 6,000 land forces on board, continually roving round their coasts, and making inroads upon the country, as often as they found an opportunity, we might do infinite mischief to our enemies, and often get rich booties for our soldiers and seamen. Then with regard to their settlements in America, as we could prevent any supplies of troops or ammunition being sent thither from any part of the world, we might plunder them from one end to the other; or, if we thought it more for our purpose, we might enable them to throw off the yoke of Spain, which most, even of the Spaniards that are born there, would gladly do, if they had any support on which they could depend, because of the oppression they meet with from their governors and other officers, who are all natives of Old Spain. We are not to judge of what may be done against Spain in the West Indies from our management of the last war against France and Spain. It was not the difficulty of the undertaking that prevented an attempt being made in that part of the world; but we had taken so great a share of the war in Europe upon ourselves, and were at so great an expence that we could not spare either money or troops for such an undertaking; and as none of our allies would join with us in it, if we had gone upon it by ourselves alone, it might have created a jealousy in some of them, which would have been of dangerous consequence to the grand design; but if the whole confederacy had agreed to have made a vigorous push that way, immediately after the battle of Hochstet, I believe it would have succeeded, and would have been a means of putting an end to the war much sooner than we did; for the French, as some of their ministers have since declared, would not have been so long able to support the expence of the war, if it had not been for the great remittances they had from the Spanish West Indies.

Now, my Lords, with regard to the dangers we may be exposed to, even suppose France should join openly with Spain against us, if we were united amongst ourselves, and under a popular, that is, a wise administration, we have nothing to fear from an union of these two great powers. We may frighten ourselves with bugbears of invasions, and God knows what; but till they have a naval force superior to any we can send against them, we have nothing to fear; and it would be our fault if we allowed them to increase their naval force during a war. We may, it is true, be obliged to divide our naval force; but the naval force of France and Spain could not all join in one port; we might render it almost impossible for them to do so; and if they should, we might join our squadrons together as well as they, in which case we should be more than a match for them. The sea, my Lords, is our element, and it will be our defence, as long as we preserve our trade, which we must lose if we allow our merchants and seamen to be insulted and plundered. A war with Spain is therefore become unavoidable, if they refuse to give us satisfaction, as well as reparation and security; and if they should be joined by France, let the dangers from such an union be what they will, we must face them; for I hope no man will say, we are to look tamely on, and see France and Spain plundering our merchants, abusing our seamen, and destroying our trade with impunity.

The present circumstances of Europe, my Lords, I shall allow to be very different

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from what they were in queen Elizabeth's days; but if she had managed her foreign negociations, as we seem to have managed ours for these twenty years past, she would have been in much worse circumstances than at present. She was in danger of having Spain, France and Scotland, joined with a powerful party in her own dominions, against her. Towards the beginning of the year 1585, the duke of Guise had got almost the absolute government of the king and kingdom of France, and Philip 2 of Spain had just conquered Portugal, and had almost entirely reduced the malcontents in Holland and Flanders. These two were in a private league against the Protestant religion, and had very near prevailed on James 6 of Scotland, afterwards James 1 of England, to join with them. In these circumstances, if queen Elizabeth had sent weak or ridiculous ambassadors to foreign courts, or if she had thought only of putting off the evil day by temporary, annual expedients, both she and the Protestant religion would have been undone; but she foresaw her danger, and resolved, therefore, to begin the attack, before the project of her enemies was ripe for execution. She sent one of the ablest and most expert ministers then in the world, to Scotland, by whose address and intrigues she at last secured that king in her interest. She attacked the king of Spain in his own dominions, both in the Netherlands and the West Indies; and she gave such aid to the Huguenots in France as entirely disappointed the projects of the duke of Guise, and greatly contributed towards raising Henry 4 to the throne of that kingdom. If we had had such foresight and wisdom for these twenty years past, or had employed such ministers in our foreign negociations, we should not now have been frightening ourselves with the conjunction of France and Spain against us, nor should we have been lamenting that we have not a friend in Europe, on whom we can depend for assistance.

Though our war with Spain in queen Elizabeth's time continued for many years, we are not, my Lords, from thence to conclude, that the war must now continue as long, before we can bring them to a compliance. This nation is now more powerful, and Spain much weaker, than at that time. Queen Elizabeth was queen of England and Ireland only: our plantations were in their infancy, Ireland often in a state of rebellion, and Scotland kept in friendship with us by her wisdom alone. On the other hand, the king of Spain was then master both of Spain and Portugal, and as powerful, perhaps more powerful than at present, in the West-Indies: besides which, he was then master of the seventeen provinces of the Netherlands, and of the two Sicilies and Milan in Italy. To this I must add, that in queen Elizabeth's time, it was not the interest of this nation to be at peace with Spain; her subjects made a great deal more by the war, than they could have done by an open trade with that kingdom; therefore she would never hear of restoring the peace, though the Spaniards would have gladly sued for it to her, if they had hoped for success, as they did to her successor, before he was well seated on the throne. In Oliver Cromwell's time, the war he engaged in against Spain, was certainly a piece of political wisdom: he found it necessary to establish his government, by making some conquest, or gaining some advantage for the nation, abroad; and Spain was the only nation from whom he could take any thing that would be of real advantage to this. He joined with France, it is true; but the power of France was not then formidable; and by his getting possession of Dunkirk, he opened a door for our assisting France against Spain, or Spain against France, according as we should afterwards find proper; and if he had lived, as he understood the interest of his country, he would probably have soon clapt up a peace with Spain, and perhaps have joined with them against France, which would probably have prevented the Pyrenean treaty of peace, the source of all the evils Europe has since been exposed to; but he died within three months after he had got possession of Dunkirk, and but a little more than three years after he had begun the war with Spain; so that the continuance of that war is not to be imputed to any inability we were in of forcing Spain to accept of a peace upon reasonable terms, but to the confusions and distractions this nation was in, from Cromwell's death to the restoration of king Charles 2, when peace between the two nations was restored, though the solemn treaties for that purpose were not concluded till the years 1667 and 1670.

Therefore, my Lords, if we judge from experience, we must conclude, that if Spain is not supported by France, the war between the two nations cannot be of any long continuance; and while it continues,

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if right measures are taken, our trade cannot suffer so much by their privateers, as it has done for almost twenty years by their guarda costas. But suppose they should be supported by France, yet if care be taken to remove the discontents of our own people, and vigorous measures pursued, I think France and Spain, even when united against us, have more to fear from us, than we have from them, though we should be so destitute of friends as not to meet with assistance from any one power in Europe. Indeed, if we should ever have the misfortune to be involved in a war against France and Spain, while we are under an administration, in which neither our people at home, nor our friends abroad, can put any confidence, an administration who had shewn themselves incapable of governing in time of peace, and who, of course, we must suppose much more incapable of governing in time of war; in that case I do not know what might be the consequence. Such an administration would think of nothing but protecting themselves at home, against the resentments of an injured and discontented people, and would, therefore, neither think of, nor be able to take, proper measures for distressing our enemies abroad, or for protecting our trade at sea, or our possessions at land, in any distant part of the world. Our only safe-guard, our only relief, would be in our parliament; and the only measure our parliament could take, for the salvation of their country, would be, to force a change in the administration, and to recover the affections of our own people, and the confidence of our natural allies, by punishing those, who, by their conduct, had forfeited both.

Thus, my Lords, I believe it will appear, that if we were now at liberty to consider the dangers we may be exposed to, and the advantages we may reap, by engaging in a war with Spain, we should, upon the comparison, find, that we have more to hope than to fear; but we have met with so many insults, and such disdainful treatment from that nation, for many years past, that if they refuse or delay to give us satisfaction, reparation and security, we have no such liberty left, we must go to war let the consequence be what it will; and in such a case, I can look upon no man as a friend to his country, who endeavours to terrify the people with the dangers they are to encounter. This, my Lords, leads me of course to consider, whether we have got, by the Convention now under our consideration, any satisfaction, security or reparation; and for this purpose, I shall go through the several articles; but I must first observe, that with regard to satisfaction, there is not one article that relates to it: it is not so much as referred to the plenipotentiaries to regulate what satisfaction the Spanish nation shall make us, for the many heinous indignities they have put upon us: nay we seem, by the very preamble, to have given up all title to it, by acknowledging, that the grievances have been mutual. My Lords, I defy the most eloquent advocate for Spain, to shew any one grievance we have subjected them to, or any one injury we have done them, ever since the treaty of Seville. By that treaty we did them a most singular favour, at the expence of our ancient ally the emperor; and we have been heaping favours upon favours ever since: therefore I must think it was a sacrificing of the truth, as well as the honour of this nation, to allow it to be said in the preamble, that grievances were alledged on each side, as well in the West Indies, as elsewhere.

Then, my Lords, with regard to our future security, I must observe, that it is of two kinds: it relates either to the freedom of our navigation and commerce, or to the free enjoyment of our possessions and privileges in that part of the world. As to the freedom of our navigation and commerce, the only article that relates to it, is the first, and by that we have almost in express terms given it up; for as a noble lord has observed before me, if it be regulated, it must be restrained, and that which is restrained, can no longer be said to be free. I was surprised to hear it said, that the Spaniards pretend to a right of searching our ships, only upon their own coasts. Do not we know that they search them wherever they can meet with them in the American seas? do not several of the petitions and other papers we have before us shew, that they not only search them many leagues out at sea, but pretend to make prize of them, upon the ridiculous pretence of their having contraband goods on board? what the Spaniards may mean, or what the noble lord that spoke last may mean, by their own coasts, I do not know: it is a word that has no determined signification; but whatever may be meant by the word, it is certain that no right or dominion can be acquired to any part of the sea, no more than to any part of the land, but by occupancy

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and possession, which must be declared by overt acts; for a nation's being in possession of the land, gives them no right to any part of the neighbouring sea; and I do not know that we have ever yet allowed the Spaniards to take possession, or to claim any right to any part of the seas of America, without the limits of their ports or havens. By the treaty in 1670, we promised, it is true, that the subjects of this kingdom should not sail to and traffic in the ports and havens, that have fortifications or magazines, nor in any other place possessed by the king of Spain in the West Indies; but we did not promise that our ships should not sail along their coasts, nor did we give them a right to search such ships, or to prescribe what sort of goods or effects they should have on board: nay, we did not so much as give them a right to search any of our ships, that should be forced into any of their ports in America, by stress of weather, or any such accident: on the contrary, we expressly stipulated, that such ships should be allowed to depart whenever they had a mind, without any lett or molestation. Yet that treaty, which now seems to be the utmost we aspire to, was in those days thought so disadvantageous for this kingdom, that the gentleman who negociated and concluded it, durst never return to England, though he was of a good family, and had several considerable relations, who might have procured him a *quietus* for any slip he had been guilty of in his negociations, if our parliaments had then been as ready to overlook such slips, as some have been since that time.

By the treaty in 1670, my Lords, the Spaniards have no right to search any British ship, even in their ports in the West Indies, when such ship happens to be forced in there by any sea distress; and much less have they a right to confiscate ship and cargo, on account of her having Spanish money, or Spanish goods on board, unless they could prove that such money, or such goods, had by that ship been taken on board from some of their settlements. Nay, in Old Spain, where a free trade is allowed, they are not to search a British ship, even in their ports, till she be unladed: they are only to put custom-house officers, not exceeding three, on board, to see that while she is unlading, no goods shall be landed without paying the duties; as appears from the 10th article of the treaty, 1667. But now, it seems, we are reduced so low, that we must grant them a right to search our ships within what they shall please to call their sea coasts, that is to say, within sight of any land they shall please to call theirs in America; for that will be the consequence: if you fix it at one league, or two leagues from the shore, their guarda costas will say, every British ship that is within sight of land, is within one or two leagues of the shore: nay, farther, we must grant them a right, it seems, not only to search, but to confiscate ship and cargo, if upon such search, they find, or can steal, on board, two or three pieces of Spanish money, or any other goods which they call the produce of their settlements in America. At this rate, my Lords, we must give up Jamaica, and all our sugar islands; for no ship can sail either to or from Jamaica, without coming upon what the Spaniards may call their coasts; and no ship can return from Barbadoes, or any of our other sugar islands, without coming upon the coasts of some of those islands in the West Indies, which the Spaniards call theirs; because no ship can return from thence, without coasting along those islands, in order to get to the northward of the trade winds, before they can bear away for any part of Europe.

Therefore, my Lords, the allowing them a right or privilege to search our ships upon any part of the seas of America, or the allowing them a right to confiscate a British ship, on account of her having any effects on board, which they may call the produce of their settlements, even though such ship should by distress be drove into any of their ports or havens in that part of the world, is what we can never grant. It is what we ought not to have negociated about, and much less ought we to have referred it to plenipotentiaries to be regulated; for if it be regulated, it must be established; and we may judge from their late behaviour, how well they will observe any regulations it can be laid under.

From whence, my Lords, it appears, I think, most evidently, that, instead of stipulating any thing for the future security of our trade and navigation in the American seas, we have, by this Convention, almost expressly given up the freedom both of our trade and navigation in those seas. But, suppose their right of searching and confiscating British ships, that may be found sailing along their coasts in America, were to be established, and put under certain regulations, by the definitive treaty that is to be concluded in pur-

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sance of this Convention, surely, my Lords, considering the bad use they have lately made of this pretended right, we ought to have stipulated a suspension of the exercise of this right, till those regulations should be settled and agreed on by a solemn treaty. We might have stipulated, that in the mean time, they should abstain from searching British ships on any part of the seas of America, and from confiscating them, unless upon a full proof of their having been concerned in an illicit trade with their settlements. But we are told, the Spaniards would have looked upon this as a stipulation for carrying on, in the interim, a sort of free trade with their settlements in that part of the world; and farther we are told, that we could have no occasion for such a suspension, because we shall have a squadron of men of war there, that will be sufficient to protect our trade in the mean time. This is really something extraordinary; we must not stipulate a suspension, because the Spaniards would look upon it as a stipulation for a free trade with their settlements; but we may compel it, by means of a superior squadron. My Lords, if they could have looked upon a stipulation for a suspension in such a light, will they not look upon our making use of a squadron for such a purpose, as a compelling them to allow us a sort of free trade with their settlements? And will not they look upon this as a breach of this very Convention? Let us confess the truth, my Lords, without any subterfuge; they would grant us nothing that might in the least derogate from any right or privilege they had a mind to make use of; therefore they refused granting us a suspension in this case; but they granted us a suspension with regard to their fortifications and improvements in Florida, because it was a right they had no mind to make use of.

I shall grant, my Lords, that a man may have a right to an estate, and yet his enjoyment of that estate may be restrained by some right or servitude (which is a more proper word than privilege) granted to another; but can that man's right to his estate be full and absolute? Can that which is under a servitude be said to be free? My Lords, every thing that limits or restrains the enjoyment of a right, must in so far diminish or destroy the right itself. We have a right to a navigation and commerce in the American seas: we have a right to a commerce with the continent and islands of America. The first is absolute and free. Upon those seas no nation in the world can say to us, What dost thou? But with regard to our commerce with the continent and islands of America, it is restrained. By the treaty in 1670, we obliged ourselves not to carry on any commerce with those places in America which are possessed by the Spaniards; and this was the reason we, at that time, found so much fault with that treaty. Therefore we ought carefully to distinguish between those two rights. As to our right of navigation and commerce in the American seas, the Spaniards have no right to limit or restrain it: I hope we shall never allow them, nor any nation, to do so; though I am told the French have lately begun to usurp such a right. As to our commerce with the continent and islands of America, the Spaniards may restrain it: they may prevent our carrying on any commerce in those places which they are in possession of; but they can restrain it no farther: they have no business, nor any right, to enquire what we do in any part of America, which they are not in actual possession of. But if we approve of this Convention, and such a definitive treaty be concluded as may be expected, and dreaded, from such a preliminary, I do not know what rights they may acquire. They may acquire the right they pretend to; which is a right to prescribe to the ships of Great Britain what course they shall steer, and what goods they shall carry, from one part of the British dominions to another.

My Lords, it was a concession in us, to allow them to exclude the subjects of this kingdom from carrying on any commerce in their American dominions: it was thought too great a concession when it was first granted. But, I hope, no British subject will say, that we ought, or can allow them to make any regulations at sea for preventing such a commerce; and therefore I was surprized to hear it said, that we had not time to settle such regulations, or to convince them of the injustice of the regulations they have made; for if they insisted upon making such regulations, or upon the justice of those they had made, the only proper answer was, a declaration of war; and this, I am convinced, is what it must at last come to. But suppose there had been some difficulty in the case at first, have we not had time enough to understand one another? Have we not been negociating about the very points now in dispute between us, for ten

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or a dozen years, without intermission? Could not we know, in all that time, what Spain would do, or how far they would disclaim the rights they have lately usurped upon us? My Lords, I am convinced some of our negociators do know: I am convinced they know, that Spain will grant us no security, nor disclaim any right they have lately set up, unless they are forced to it by a vigorous war; and therefore, I must look upon this Convention as a mere contrivance for putting off the evil day: an expedient for this session; and the prolongation of the term hereby stipulated, will, I suppose, be an expedient for the next, perhaps for two or three ensuing; during which the Spaniards will continue to plunder our merchants, and interrupt our trade, as usual.

Now, my Lords, with regard to the free enjoyment of our possessions and privileges in America, the only article that relates to it, is the 2d, and that relates only to Georgia; but how does it relate to it? By what, I am sure, the Spaniards will call, giving it up. If the Spaniards pretended to dispute limits with us, it was a most ridiculous thing in us to allow that dispute to be carried so far as to the Southern, perhaps near the most Northern bounds of North-Carolina. It was the same as if we had sat down to hazard, and had staked North Carolina, South Carolina, and Georgia, against the insignificant Spanish fort called Fort Augustine; for that is the only fort or settlement the Spaniards have in Florida. I shall grant, the suspension stipulated in this Article is mutual, but my Lords, it is far from being equal. We suspend fortifying or improving three large countries or provinces already planted, already greatly improved, already inhabited by numbers of our own people, and which we were resolved to fortify and improve as fast as possible. On the other hand, the Spaniards are to suspend fortifying and improving one single province, not so large as any one of our three, and that, a country entirely waste, or inhabited only by such as are their enemies, except one little fort, and a country which they had no intention either to plant, improve, or fortify. But is Georgia the only possession or privilege we have in America, which the Spaniards now pretend to dispute with us? Why is there no mention made of our ancient settlement in Campechey? Of our right to cut logwood in the bay of Honduras? Or of our right to gather salt in the island of Tartugus? Are these possessions and rights which are not worth contending for? Or are they to be given up, or relinquished, for the sake of an infamous peace? It would seem so by this preliminary Convention; and therefore I must conclude, that instead of stipulating any future security for the free enjoyment of our possessions and privileges in America, we have tacitly at least, given up by this Convention, every possession, every right, privilege, which the Spaniards now pretend to dispute with us in any part of America.

In lieu of these most extraordinary concessions, one might expect, my Lords, that we had got the most ample, the most complete reparation for all the damages we have sustained, and all the extraordinary expence we were put to; but we were too modest, it seems, to ask any reimbursement of costs; and if the payment stipulated by the third Article, which has been so much boasted of, be closely examined, and stripped of that artful disguise in which it is dressed up, we shall find, that we have given a free discharge for all past damages, without obtaining one shilling of reparation, except as to what relates to four or five ships, which the king of Spain had ordered to be restored, before this Convention was thought of. But this has been put in so clear a light, by the noble lord that spoke last but one, that I need not enlarge upon it: and therefore, I shall only take notice of some things, that fell from the noble lord that spoke last. He was pleased to tell us, that the Spaniards made a demand of 5 or 600,000*l.* upon us, and seemed highly to commend our dexterity at negociation, in prevailing upon them to accept of 60,000*l.* in full of such a high demand. My Lords, if there was not the least pretence for setting up any demand against us, we ought to have looked upon their setting up such a demand, as a fresh insult; and therefore, instead of allowing any part of it, we ought to have rejected it with contempt. The 95,000*l.* stipulated in this Article, is therefore, the only sum we are to receive by way of reparation; and of this sum our own South Sea Company is to pay 68,000*l.* For whatever the noble lord may think of the king of Spain's protestation, as he declares, that under the validity and force of that protest he signed this Convention, I am convinced he looks upon the payment of that money by our South Sea Company, as the condition upon which alone he stands obliged to pay the 95,000*l.* stipulated by this Article; and I will en-

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gage, that not one shilling of the 95,000*l.* shall be paid to us by the king of Spain, unless the 68,000*l.* be first paid to him by our Company. Therefore, all the reparation the king of Spain is to make, is the 27,000*l.* which is the difference between 95 and 68,000*l.* And for this 27,000*l.* his Catholic majesty, or his subjects, are to retain possession of, and convert to their own use, the five British ships which he had before ordered to be restored; for, by the fourth Article of this Treaty, if any part of any of these ships has been, or shall be restored; it is to be deducted out of the 95,000*l.*

This, my Lords, is really such a juggle, such a farcical sort of reparation, that I cannot but imagine when M. de la Quadra found our negociators willing to accept of it, he went smiling to his master, and told him, he had got the English to accept of such a sham reparation, as no Indian nation in America would have been amused with. Well, says his Catholic majesty, what have you done with the poltroons? Their merchants are to have 155,000*l.* in full for all the depredations your subjects have committed upon them for almost 20 years past, answers the minister. What, replies the sovereign, 155,000*l.* how can you pay it? For I will not give them one single farthing. No, no, says the minister; 60,000*l.* one part of it, they are to raise by a tax upon themselves; 68,000*l.* another part of it, their South Sea Company is to give me, and I am to return it to such commissaries as they shall appoint, for distributing it among their merchants; and for the remaining 27,000*l.* they are to allow your majesty to keep the five ships, and their cargoes, which you had given orders to restore: now, as these ships were certainly most unjustly taken, and more unjustly confiscated, the captors must now account to your majesty, instead of accounting to the English, for the full value, which I reckon will amount to, at least, 35,000*l.* so that instead of your paying them any thing for reparation, they have, in effect, paid you at least 8,000*l.* for giving them the pretence of a reparation. My Lords, M. de la Quadra may have some private reasons for not looking upon our negociators as downright fools; but, if we approve of such a reparation, I am sure the Spanish nation will have reason to look with greater contempt upon this, than upon any nation of native Indians in America.

After having thus shewn, that we have got no reparation by this Convention, we need not, I think, my Lords, much trouble our heads about the value put upon our losses by our commissaries; but I think it sufficient for discrediting their report, that one of them who was examined at our bar, could give no distinct reason for reducing the claim of our merchants from above 400,000*l.* to 200,000*l.* If they had vouchsafed to have given us any reasons for such an extraordinary reduction, I am convinced it would have been easy to have shewn, that their reasons were frivolous; and till they do assign their reasons, every man must suppose they had no reason; for the characters of our merchants, who gave in their claims, many of them, if not all, upon oath, are as good as the characters of our commissaries. But supposing the reduction made by our commissaries had been just, the value of the five ships mentioned in the fourth article of this Convention, or at least of the four last, could be no part of the 200,000*l.* at which they computed our real losses; because the four ships last mentioned, were taken since our commissaries returned from Spain; and the first mentioned, I mean the Woolball, was taken long after the treaty of Seville, and could therefore be no part of any of those pretensions, that were referred to commissaries by that treaty. For this reason, if the 95,000*l.* to be paid by the king of Spain and our South Sea Company, had been looked on as a reparation for that 200,000*l.* only, we ought to have stipulated the entire restitution of these five ships, without allowing any deduction from the 95,000*l.* on account of that restitution; but, in this case, the king of Spain must have paid us out of his own pocket 27,000*l.* by way of reparation for 200,000*l.* which was, it seems, what he was resolved not to do; and therefore, by this article, we have allowed him to keep these five ships, which he had before agreed to restore.

This, my Lords, was, I shall allow, extremely complaisant, and since we shewed so much complaisance to him in the point of reparation, he should, I think, in good manners, have shewed some complaisance to us in the point of future security: but his Catholic majesty, it seems, in every point, acted the part of a stubborn, haughty Spaniard, and we, I do not know what. In former days, my Lords, we used to be as stubborn as any of our neighbours; and to shew that we were so, as the noble lord that spoke last was pleased to mention the

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treaty between Oliver Cromwell and the Dutch, I shall beg leave to examine that treaty, because the circumstances of the then disputes between us and the Dutch, were something parallel to the disputes now subsisting between us and Spain. The Dutch, it is true, had not for many years before done us any injury, nor had they any way interrupted our trade; but in a former reign, in which the only maxim of government was, that peace was better than war, as it seems to be at present, the Dutch had done us a very heinous injury, which had never been properly resented; and they had begun to dispute with us the honour of the flag. Therefore, our demands upon the Dutch were, That they should give us satisfaction for the insult they had many years before put upon us, reparation for the damage they had done, and security for future unmolested enjoyment of that right, called, The Honour of the Flag.

How did Oliver Cromwell, my Lords, provide for these several demands, by the treaty he made with the Dutch? By the 27th Article it was expressly provided, "That the United Provinces should take care, that justice be done upon those who were partakers or accomplices in the massacre of the English at Amboyna, provided any of them be living." I must observe my Lords, that this proviso was necessary; because this massacre was perpetrated in the peaceable reign of James I. above thirty years before this treaty. Then, with regard to reparation, Oliver's negociators did not lump it, as our present negociators have done by this Convention; no, my Lords, the quantum of that reparation was, by the 30th Article of the same Treaty, to be adjusted by commissaries, respectively appointed, who were to meet, not in Holland, but at London, and to determine it in three months, or upon their failure, it was referred to the Protestant Swiss cantons, who were to give judgment within six months; and we know that the Dutch actually paid a very large sum of money upon this account. Lastly, with regard to our future security: though it related to nothing but a point of honour, Oliver knew well the great consequence of a trading nation's being jealous of its honour; and therefore, he took care not to refer such a point to commissaries; for by the 13th Article of that Treaty, it was expressly provided, "That the ships and vessels of the said United Provinces, as well those of war as others, which should meet any of the men of war of the republic of England in the British seas, should strike the flag to them, in the same manner as was ever observed at any time before, under any former government."

As to the 10,000*l.* mentioned by the noble Lord that spoke last, it was not paid on account of any damage done to this nation before the war commenced. It was paid, my Lords, on account of some English ships, that had been seized and detained in the dominions of the king of Denmark, after the commencement of the war; and as they were seized at the instances of the Dutch, Oliver insisted, that the Dutch should make good the loss; and accordingly, by the 28th Article of the same Treaty, a stipulation was made for this purpose, which deserves our particular notice upon this occasion. By this stipulation, the States General obliged themselves, that those ships and goods, which were remaining in specie, together with the true value of those that had been sold, embezzled, or otherwise disposed of, should be restored within a fortnight after the arrival of those who were to go to reclaim them; and also, that the losses which had accrued to the English by their being detained, should be made good, according to an appraisement to be made by commissaries therein named; which commissaries were to meet on the 27th of June, a little more than two months after the ratification of the treaty, at London; and after the first day of August then next ensuing, unless they agreed before-hand, they were to be shut up in a room, separate from all other persons, without fire, candle, meat, drink, or other support, till they had agreed of the matters to them referred. The states likewise obliged themselves to pay 5,000*l.* within two days after the exchange of the ratifications, to the merchants, for the expence of their voyage to Denmark, to reclaim their ships; and 5,000*l.* more, within six days after their arrival there, for refitting and repairing their ships for their return. And for the performance of these conditions, they farther obliged themselves, that bond should be given by sufficient men, living here at London, for 140,000*l.* The 10,000*l.* mentioned by his lordship was, therefore, only a part of the reparation that was to be made for this particular damage; for we know that the commissaries, by their award, dated the 31st of July that year, the day before they were to have been enclosed, declared, that the whole damage

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amounted to 97,973*l.* which was accordingly paid at London, and distributed among those concerned.

I wish, my Lords, our late negociators had read this treaty: they might from thence have seen what was meant by satisfaction, reparation and security; for, I think, I have now clearly shewn, that by this Convention, we have obtained no satisfaction, no security, no reparation, nor so much as a promise for any one of them. On the contrary, we have by this preliminary, either expressly or tacitly, given every one of them up; and shall a British parliament approve of such a treaty? shall the British nation hug itself in the precarious enjoyment of such an infamous tranquillity? where can a British merchant go to carry on any foreign trade? what foreign port can a British ship put into? they must expect to be insulted, abused, and plundered, by every nation they deal with; and under such a misfortune, can we expect to improve the circumstances of our affairs, either at home or abroad? My Lords, by our late conduct, we have brought ourselves into a necessity of going to war, let the consequence be never so fatal. A man who submits tamely to a small affront, is sure to meet with a heinous one; and then he must fight; whereas, if he had resented the first with spirit, he might have obtained satisfaction without danger, and would have prevented his meeting with a second. If we had properly resented the first injury we met with from Spain, if upon the first insult or encroachment, we had peremptorily demanded satisfaction, we might have obtained it by peaceable means; but now it is become too weighty for negociation: we can find it only at the point of our sword; and there, I trust in God, we shall still be able to find both satisfaction and security.

After what I have said, my Lords, I think I have no occasion to consider our circumstances, either at home or abroad; because I have, I believe, made it appear, that a war is become unavoidable, unless we have a mind to continue under such an infamous peace, as must render our circumstances every day worse and worse. Nor do I think, that upon the present question, I have any occasion to enquire into the cause of the present situation of the affairs of this nation, or of Europe; but if it were necessary, I believe, I could shew, that it is entirely owing to the measures we have followed for almost these twenty years. I could shew, that the same conduct, which has now at last made a war unavoidable, has rendered us almost incapable of carrying it on with vigour or success; but thank God, we are not yet altogether so: this nation has many and great resources; and if they are put under a right conduct, we may still be able to recover our friends, and revenge ourselves of our enemies; therefore, I hope no man will so far despair, as to approve of any preliminary that may lead us into an infamous treaty of peace.

The Earl of *Isla*:

My Lords; whatever influence wit or eloquence may have upon this assembly, however improper it may be to make use of either in this House, it must be acknowledged, that a great deal of both has been made use of upon this occasion; and I must say, that in this debate a sort of eloquence has been made use of, which may be frequent at a certain place at the other end of the town, but cannot, I am sure, be said to be either proper or decent in this assembly; for a great many very harsh epithets have been given to the Convention now before us, which, considering the place where we are, I think, it would have been better to have let alone, even though the Convention had been as bad as it has been represented; but it will be found, I believe, upon a serious examination, that they are such as it no way deserves. By endeavouring to shew this, I do not know, but that in the humour some lords seem to be at present, I may be called an advocate for Spain, as well as some other lords who have spoke before me, upon the same side of the question; but whatever I may be called, either within doors or without, I am resolved, while I sit here, to speak my sentiments freely, and to declare openly, what, I think, will conduce most to the service of my King, and the good of my country. This is my duty, this is the duty of every member of this House, and therefore, I think it as wrong to affect popularity upon any occasion, by chiming in with those prejudices which may have been accidentally taken up, or artfully raised among the people, as it is to shew a blind or a slavish complaisance to the ministers of the crown.

Whether we have got a proper satisfaction, or a full reparation, for the injuries that have been done to us, are questions that have been so fully spoke to by the noble lords who have already spoke in favour of this Convention: by them it has

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been so clearly demonstrated, that we could not expect, nor ought to have insisted upon greater satisfaction or reparation, from a nation whose friendship we ought to court, that it would be vain, if not arrogant in me, to attempt to set that matter in a clearer light. Besides, my Lords, there are articles, which in all negociations admit of a little yielding or softening, and particularly in our negociations with Spain, we ought never to allow them to be of any extraordinary weight. If we can get the other disputes, which now subsist between Spain and us, adjusted to our satisfaction: if we can obtain a reasonable security for the future unmolested enjoyment of our navigation and commerce in the American seas, I think it would be very prudent in us to yield a little upon the head of satisfaction and reparation: at least, I must think it would be imprudent in us to engage in a war with Spain, and at this juncture too, for the sake of having a Spanish governor, or captain of a guarda costa, hanged, as many of them certainly deserve for their behaviour towards us; or for the sake of obtaining 50, or even a 100,000*l.* more, for making good the damages our merchants have sustained.

The Article of search or no search, is therefore that which we ought principally to regard in our present contest with Spain; and this, my Lords, I must observe, is a mutual claim. We pretend to a right of searching the ships, even of foreigners, upon our own coasts, as well as the Spaniards do upon theirs, especially when there are grounds to suspect, that any such ship has been employed, or is going to be employed, in carrying on an unlawful trade with our subjects, or in our dominions. It is a sort of liberty we take, it is a sort of liberty every nation takes, 'Hanc petimus damusque vicissim'; and neither the Spaniards nor we have given it up, by referring it to be regulated by plenipotentiaries. Nay, even in the open seas, in the middle of the wide ocean, if one of our men of war should, upon visiting a ship they meet with, find cause to suspect, that her passports or sea-letters were forged, or should find cause to suspect from what they saw on board, that the ship had been concerned in any piratical practices, I believe they would take the liberty to break through the rules prescribed by treaties for visiting ships at sea, and would search such a ship, in order to discover whether their suspicions were well or ill grounded. This is a liberty which the armed ships of every country take, even upon the high seas; it is a liberty which every country must indulge to another, for the sake of discovering and apprehending pirates; therefore, it is a liberty that no nation can complain of, unless when it is turned to a bad use, and then it is not the right or liberty, but the use made of it, that affords a just cause of complaint.

The liberty of searching the ships of foreigners upon the high seas, on suspicion of piracy, is a liberty that is established and regulated by the law of nations alone; but the liberty which every nation enjoys, of searching, on suspicion of unlawful trade, the ships of foreigners that approach near to their coasts without any necessity, is a liberty that is not only established by the law of nations, but is generally regulated by the particular laws or customs of each respective society. In this country it is established and regulated, not only by immemorial custom, but by several acts of parliament; and it is impossible for us, by any precautions we can take at land, to prevent the exportation of our wool, the importation of prohibited goods, or the clandestine running of goods in upon us without paying the duties, unless we take the liberty of searching such ships, upon our own coasts, as give just cause to suspect their being concerned in, or designed for, some such unlawful trade. This, my Lords, has been found by experience to be true; and therefore by an act of the 10th and 11th of the late king William, it was provided, "That our admiralty should appoint two fifth rate, and two sixth rate ships, and eight armed sloops, to cruize on the coasts of England and Ireland, to seize all ships and vessels exporting wool to foreign parts." Now, my Lords, if any of the men of war, or armed sloops thus employed, should see a French ship hovering, or lying at anchor within a few leagues of our shore, and boats passing and repassing between her and the land, are we to suppose that they are only to visit such ship, according to the rules prescribed by treaty, and to give entire credit to her passports, or sea-letters? If they did, they would always find her bound from some port of France, to some port in Norway or the Baltic; or from some port in Norway or the Baltic, to some port of France; yet, nevertheless, she might be half loaded with our wool, and waiting at that place for the rest of her cargo; therefore, in such cases, it is absolutely necessary to make some sort of search, and we have al-

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ways done so, without any nation's having complained of our making, by such a practice, any encroachment upon the freedom of their navigation and commerce.

The case, my Lords, is the same with regard to smuggling: it was found by experience, that all the precautions we could take at land, could not prevent that pernicious trade, and therefore we have, by several acts of parliament, enforced and regulated the right we have by the law of nations, of searching, as well as visiting, such foreign ships as approach our coasts, and give just cause for suspecting their being concerned in, or designed for carrying on any contraband trade. For this reason, we ought to be cautious of denying this liberty or privilege to any nation; for if we do, every nation in Europe will say to us, 'With what measure ye mete, it shall be measured to you again:' as you will not allow us to search your ships upon our coasts, we will not allow you to search our ships upon your coasts; and if by this means we should be debarred searching any foreign ship upon our own coasts, it would be impossible for us to prevent smuggling, or the exportation of our wool. Not only the Dutch and French, but all nations that had any use for it, would soon fall upon ways and means to steal away from us as much of our wool as they could have occasion for, to the great prejudice, if not the utter ruin of our woollen manufacture.

This, my Lords, would be a much greater loss to us, than the exporting of gold or silver from Spain, or from the Spanish settlements in America, can be to that nation. For in their present circumstances, it is ridiculous in them to prohibit the exportation of that commodity. If they could make their prohibition effectual: if they could absolutely prevent the exportation of gold or silver from any part of their dominions, they would, in their present circumstances, soon come to be like Midas in the fable: many of them would have nothing to eat, drink, or clothe themselves with, but gold or silver; and then they would be glad to give every nation a licence to export both the one and the other, in order to have those necessaries and conveniences of life they stand in need of, and cannot have in their own dominions. This we know to be often the case of some of their settlements in America; and when it is, their governors always send licences to some of our plantations, not only to come and trade in the Spanish settlements, but to export gold and silver, and whatever else they please to take, in return for the provisions or necessaries they carry thither.

But with regard to our wool, my Lords, the case is very different. It is a commodity much more valuable than gold or silver; because it is a commodity absolutely necessary, or, at least, extremely convenient, for all nations that live at any distance from the torrid zone; and as it must be manufactured before it can be fit for use, a great many industrious and faithful subjects are always employed in that manufacture. Now, as we do not prohibit the exportation of it when manufactured, but, on the contrary, encourage it, as much as we can, the exportation of it, when fully manufactured, will, I hope, be always sufficient for furnishing us with every thing we stand in need of, for luxury, as well as necessity and conveniency, from any country in the world; therefore we can never be under any necessity to export it unmanufactured; and as none of our neighbours can carry on woollen manufactures, especially those of the middling sort, without having some of our wool to mix up with their own, as the manufacturing for our neighbours, as well as ourselves, must employ a great many more hands, and bring a greater advantage to the nation, than if we were to manufacture for ourselves alone, we ought to take all possible methods for preventing the exportation of this commodity, till it has been fully manufactured by our own people.

This, my Lords, shews the wisdom of those regulations we have made both by land and sea, for preventing the exportation of our wool; and, at the same time, it must shew how unwise it would be in us, to introduce, among the nations of Europe, any political maxim, which, if we were obliged to observe it ourselves, might render it extremely difficult, if not altogether impossible, for us, to prevent our wool's being stolen away from us; and that this would be the consequence, if we were to abstain from searching any foreign ship upon our coasts, experience itself must convince us. But this, my Lords, is not the only inconvenience we should be liable to at present, if we should be obliged to give up, or pass from this right of searching ships upon our own coasts; for while our present high duties continue upon all foreign goods imported,

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it would be impossible for us to prevent smuggling, without the exercise of this right; and if we take such a liberty with the ships of neighbouring nations upon our coasts, we must allow them to take some such liberty with our ships upon their coasts; otherwise, we may run the risk of uniting all the powers of Europe in an association against us.

For this reason, my Lords, the question, Whether we ought to allow the Spaniards a right or privilege to search, upon just grounds of suspicion, any of our ships that shall approach their coasts without necessity, seems to be a question that may admit of some sort of difficulty. They may insist upon it, as a right derived to them from the law of nations, and confirmed by our own practice in similar cases; and it is a privilege which we may allow them, without acknowledging that they have any thing like a *imperium maris*, with regard to the seas of America. As for this *imperium maris*, or dominion of the seas, there may be some such thing, for what I know: I believe we have a just pretence to such a dominion, with regard to the British seas; but I must observe, that a very great author has said, 'That it is rather to be imagined than explained.' It is a subject that has employed the pens of many learned and ingenious men; but they differ so much from one another, and sometimes from themselves, that there is no possibility of forming a certain and distinct notion of it from what they have wrote upon the subject. They have divided and subdivided it a great many different ways; which it would be needless, as well as tedious, to give an account of; but the most material division I have taken notice of, is that by which it has been divided into *imperium proximum* and *imperium remotum*; the former being that *imperium* which a nation may acquire, and every nation pretends to, upon what they call their own coasts; and the latter, that which a nation may acquire upon what we call the open seas, either by treaty, or by the tacit concession and long sufferance of its neighbours.

But here again, my Lords, a new difficulty occurs: for, what may be called the coasts, or what may be called the open seas, is a question that is not determined by the authors that have wrote upon the subject, nor has it lately been determined by treaty, so far as I know, between any two nations in Europe. The greatest authority I can think of, that can any way be made use of for determining this point, is that famous decree or resolution of the senate of Rome, by which they gave to the great Pompey the command or government of the sea, for suppressing those pirates that then infested the Mediterranean; for, as by that decree they extended his command or *imperium* as far as 400 stadia, which is about 13 or 14 leagues, over the whole continent or land adjoining to the sea, it may be supposed, they reckoned that the sea coast, which always includes land as well as sea, extended 14 leagues up the country, and consequently 14 leagues out at sea. But no modern nation will, I believe, admit that what we now call sea coast, can be either way so far extended.

Having thus shewn what the Spaniards may say in favour of the right or privilege they pretend to have of searching, as well as visiting our ships, upon what they call their coasts in America, when such ships, by their approaching too near, or by other tokens, give cause to suspect, that they are concerned, or designed to be concerned in some illicit trade; I shall now, my Lords, endeavour to shew what may be said on our side. With regard to any liberty or privilege we may take with the ships of foreigners sailing upon the British seas, we may justly say, my Lords, that no argument can, from hence, be drawn in favour of any right the Spaniards may pretend to in the seas of America; because we have an *imperium* or dominion over the British seas, established to us by custom immemorial, and acknowledged by almost all the nations of Europe: Whereas the Spaniards can pretend to no such *imperium* over the American seas, nor ought we to allow them to exercise any liberty or privilege that may be a foundation for their claiming such an *imperium* in any future time. Then, with regard to what may be called the sea coast of any country, we may say, that, by the law of nations, nothing ought to be called sea coast that is within the common course of sailing from one country to another; and that therefore nothing but creeks or small bays ought to be reckoned within the sea coasts of any country, or such places in the sea which are so land-locked that no ship would chuse to get within them, unless she drove thither by stress of weather, or has some other design than that of sailing along the coasts of that country. This, I say, my Lords, we may insist on as the general rule for determining what may be

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called the sea coasts of any country; and this ought to be the rule in the American seas, especially within the tropics, rather than any other, because the winds and currents in that part of the world, not only make ships chuse, but even force them to sail along, almost close in with the shore of some of the islands or continent of America, as has been extremely well explained by a noble Lord, who spoke some time since upon the other side of the question.

To this, my Lords, we may add, that though an *imperium* or dominion may be acquired over some seas, or some particular parts of the ocean, yet that dominion, like property in lands, must be acquired by some overt acts, which declare the intention of the possessor, and the cession or resignation of the rest of mankind; and as no such overt acts have ever been done by the Spaniards, and peaceably submitted to for any time by other nations, in the seas of America, therefore those seas ought to be looked on as a large common, lying between the Spanish dominions and ours, no part of which they can appropriate, nor assume any jurisdiction over it, without our consent; and I am sure we may justly say, that the late behaviour of some of their Guarda Costas, and the delays we have met with in obtaining justice from their court, have given us a very good reason, never to allow them to assume the least degree of jurisdiction in any part of the American seas, where our ships may be obliged, or have occasion to sail.

From what I have mentioned, my Lords, of the arguments that may be made use of upon both sides of the question, I believe it will appear, that the real dispute between Spain and us, I mean that which is of the greatest consequence, is not about our right to a free navigation and commerce in the American seas, but about their right to search ships upon what may be called their own coasts. The right to be regulated by the plenipotentiaries, respectively appointed by this preliminary is not our right to a free navigation and commerce in those seas, but their right to do what every nation does, I mean, to visit, and even to search, upon just cause of suspicion, such ships as come within what may be called their sea coasts; and it is their late behaviour, not ours, that makes the regulating of this right necessary. They have lately extended what they call their sea coasts so far out in the ocean, and they have searched so many of our ships without cause of suspicion, and confiscated so many of them without any pretence of justice, that it is become necessary to lay them under some restraints or regulations; and these restraints and regulations are to be settled and agreed on by the plenipotentiaries respectively appointed. That they have sea coasts in America, is what no man will deny; and that they have some sort of power or jurisdiction over those sea coasts, is what, I think, can be as little denied. Nay, we seem to have acknowledged it by treaty; for as our South Sea Company got, by the Assiento treaty or contract, the sole privilege of introducing negroes into the Spanish settlements in America, it was by the 18th Article of that Treaty agreed, "That when the Assientists should have notice that any ship with negroes (not belonging to them) was come upon the coast, or entered into any port, they might fit out, arm, and send out immediately such vessels as they should have of their own, or any others belonging to his Catholic majesty, or his subjects, with whom they should agree, to take, seize, and confiscate such ships and their negroes, of whatever nation or person they might be, to whom the same should belong; to which end the said Assientists, and their factors, should have liberty to take cognizance of, and search all ships and vessels that should come upon the coasts of India, or into its ports, in which they should have reason to believe, or suspect, that there were contraband negroes. Provided always, that for the making of such searches, visits, and other proceedings before mentioned, they should first have leave from the governors, to whom they should communicate what occurred, and desire them to interpose their authority."

These, my Lords, are the words of the treaty; and if the court of Spain could delegate a power to our South Sea company to search such ships as came upon the coasts of India, in which they should suspect they were contraband negroes, as by our accepting of this article, we have acknowledged they could, surely we must allow, that they have a power to search such ships as come upon the coasts of India, in which they may suspect there are any other sort of contraband goods: by which I mean, and by which they can only, with any justice or propriety, mean, such goods as are designed to be imported into, or have been exported from, their settlements in India, contrary to the ex-

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clusive privilege enjoyed by the subjects of Spain, and confirmed to them by the treaties subsisting between them and us. This power, my Lords, I say, we must allow them: but we must not allow them to make a bad use of it, or to extend what they call their coasts, so far as may give their guarda costas a pretence to interrupt our lawful trade or commerce in those seas; and as they have done so for some time past, it is become necessary for us to lay this power under such regulations, as may prevent such practices in time to come: This, I hope, will be done by the definitive treaty that is to be concluded; but as the contriving and settling these regulations required a most mature and serious deliberation, it could not be done so as to make them a part of this preliminary treaty; and therefore it was necessary to refer this matter to the plenipotentiaries.

What liberty we may allow to the Spaniards, with regard to searching our ships at sea, or upon what they call their own coasts, or whether or no we ought to allow them any such liberty, or if we do allow it, what restraints and regulations it ought to be subjected to, are questions, my Lords, that cannot, I think, come before us upon this occasion: All I design by what I have said upon this head, is to shew, that the dispute between the Spaniards and us about search or no search, is of such a nature, that it could not be immediately determined. If we had been at war with Spain, and had reduced them to such distress, that they must have agreed to any thing we thought fit to propose, the dispute might have been easily ended; because, as it would be our interest to have a free trade to the Spanish settlements in America, as we shall always reap the more advantage, the more trade our subjects have with them, therefore if we cannot obtain a free trade, it is our interest not to admit of any thing that may prevent or obstruct an illicit trade; and for this reason, if we had prevailed so far as to have the drawing up of the articles of peace, if the Spaniards had been forced to present us with a carte blanche, we ought certainly to have stipulated no search any where but in their ports or harbours, when our ships happened to be forced in there by sea distress. But this, my Lords, was not our case when this treaty was negociated: We were treating upon equal terms: We were negociating to prevent a dangerous war, and not to put an end to a successful one; and in these circumstances it was impossible for us to adjust and finally settle a dispute of such a nature in so short a time. If it be finally adjusted and settled in the eight months prescribed by this preliminary, I shall think it something very extraordinary; and if at last all the disputes now subsisting between Spain and us are adjusted to our satisfaction, I shall then think that we may justly apply to one person in this kingdom, what was said of the great Fabius at Rome, 'cunctando restituit rem.'

I know, my Lords, it would have been more glorious, and would have looked more like great courage and magnanimity, to have attacked the Spaniards directly, without so much as asking, whether they were willing to give us satisfaction; if we we had done so, the Spaniards could not with justice have complained of us, nor could they have said, we treated them otherwise than they deserved; but I cannot think it would have been prudent, nor do I think it would have been, acting like men that had a due regard to the prosperity and happiness of their country. Wars and victories, my Lords, make a fine figure in history, or even in a news-paper: We still read with pleasure the romantic accounts of our wars and battles in France, when our kings were wasting the substance, and spilling the blood of their subjects, in quest of that which would have ruined their country, if they had met with the wished for success; we likewise read with pleasure, an account of our late campaigns in Flanders, Germany and Spain, when we were running ourselves several millions in debt yearly, for the sake of conquering kingdoms and provinces for those, who have not since shewed themselves very grateful for the favours we then so bountifully bestowed: and if we had now run ourselves headlong into a war with Spain, we should probably, if they had been assisted by none of their neighbours, have had the same success we have formerly met with in our wars against that nation: The taking of some of their galleons or flota, the plundering some of their towns upon the sea coast, in Europe, or the taking or plundering some of their settlements in America, would have furnished our gazettes with excellent paragraphs for the entertainment of the present age, and our histories with fit matter for the amusement of future generations; but, upon balancing accounts we should have found, I believe, that the profit would not answer the charge; and that we had

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done better to have accepted at first of a reasonable satisfaction in a peaceable manner. In the mean time, our trade would have been interrupted, our people oppressed with taxes, many of our merchants ruined by captures, and multitudes of tradesmen drawn away from useful labour and industry; for it was well observed by a celebrated clergyman, who was appointed to preach at St. Paul's upon the peace of Utrecht, that those times which are the best to read of, are far from being the best to live in.

It was, therefore, I think, my Lords, the wisest course, to try first what could be done by negociation; and as there is nothing in this preliminary that is either scandalous, or inconsistent with any of the rights or privileges of this nation; as we have got all that could be expected in so short a time; and as the time stipulated for concluding a definitive treaty is but very short, I must think it was right to accept, in the mean time, of this preliminary. If the court of Spain should refuse, or unreasonably delay giving us entire satisfaction by a definitive treaty, within the time limited by this preliminary, we must go to war; we shall then be able to excuse or justify ourselves in our own minds, let the event of that war be what it will; because of two evils, the least is certainly to be chosen. Our trade cannot suffer much in the mean time, the circumstances of affairs in Europe cannot become more unfavourable than they now are, nor can it be supposed that we shall be weaker, or Spain stronger, eight months hence, than at present. For these reasons, my Lords, I think we cannot well refuse to give our approbation of this preliminary, in those general terms the noble lord has proposed; and therefore I shall be for agreeing to the motion he has been pleased to make.

At last the question was put, and carried in the Affirmative, upon a division of 71 Contents, to 58 Not-contents; and of Proxies 24 Contents to 16 Not-contents.

The Lords' Address of Thanks for the Convention with Spain.] Whereupon the following Address was agreed to, and presented accordingly:

"Most gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in parliament assembled, beg leave to return your Majesty our most humble thanks for your gracious condescension, in laying the Convention between your Majesty and the king of Spain, dated the 14th day of January last, N. S. together with the separate Articles, before this House.

"We think it our indispensable duty, on this occasion, to express our just sense of your royal care of the true interests of your people; and to acknowledge your Majesty's great prudence, in bringing the demands of your subjects for their past losses, which have been so long depending, to a final adjustment by the said Convention; and procuring an express stipulation for a speedy payment; and in laying a foundation for accomplishing the great and desirable ends of obtaining future security, and preserving the peace between the two nations.

"We beg leave also to declare to your Majesty, our confidence and reliance on your royal wisdom and steady attention to the honour of your crown, and the welfare of these kingdoms; that in the treaty to be concluded in pursuance of this Convention, proper provisions will be made for redress of the grievances so justly complained of; and particularly, that the freedom of navigation and commerce in the American seas, to which your Majesty's subjects are entitled by the law of nations, and by virtue of the treaties subsisting between the two crowns, will be so effectually secured, that they may enjoy, unmolested, their undoubted right of navigating, and carrying on trade and commerce from one part of your Majesty's dominions to any other part thereof, without being liable to be stopped, visited, or searched, on the open seas, or to any other violation or infraction of the said treaties; the mutual observance thereof, and a just regard to the privileges belonging to each other, being the only means of maintaining a good correspondence, and lasting friendship between the two nations.

"Permit us at the same time, in the most dutiful manner, to express to your Majesty, our firm dependence, that in the treaty, to be concluded in pursuance of the said Convention, the utmost regard will be had to the rights belonging to your Majesty's crown and subjects, in adjusting and settling the limits of your Majesty's dominions in America; and to give your Majesty the strongest assurances, that, in case your Majesty's just expectations shall not be answered, this House will heartily and zealously concur in all such measures, as shall be necessary to vindicate your Majesty's honour, and to preserve to your

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subjects the full enjoyment of all those rights, to which they are entitled by treaty, and the law of nations."

The King's Answer.] His Majesty returned the following Answer:

"My Lords, I thank you for this dutiful Address, and for the grateful sense you express of my care of the true interests of my people. You may depend upon it, that I have the honour of my crown, and the welfare of my kingdoms entirely at heart; and that nothing shall be wanting on my part, to secure to my subjects the full enjoyment of their navigation and commerce, and their other just rights."

Protest against the Address of Thanks for the Convention with Spain.] Upon this Address being approved of, the following Protest was entered in the Journals:

"Dissentient'

1. "Because we conceive that this Resolution, under the plausible pretence of a respectful Address to the throne, carries with it an approbation of the Convention concluded at the Pardo the 14th of January last, which, as we apprehend, may be a most fatal compliment, if it should induce his Majesty to believe, that this Convention is agreeable to the sense and expectation of the nation.

2. "Because this Resolution hath rather weakened than enforced the Address of last year, having omitted that part of the said Address, which declares, that no goods being carried from one part of his Majesty's dominions to another, are to be deemed contraband, and prohibited goods; and that the searching of ships, under pretence of their carrying contraband, or prohibited goods, is a violation and infraction of the treaties subsisting between the two crowns.

3. "We think the said Resolution doth not sufficiently assert our right, by saying only, that we shall not be liable to be stopped, searched, or visited upon the open seas, the merchants having proved, at the bar of the House, that currents and winds unavoidably drive ships out of their course, and that observations of landmarks, upon the Spanish coast, are absolutely necessary for their steering a safe course through those seas, we apprehend, that their being obliged to keep a direct course, without coming near the Spanish coast, as lately insisted upon by the Spaniards, would render them sole judges of our navigation; and their being permitted to visit or search our ships within any limits whatsoever, would render our whole American trade precarious and impracticable.

4. "Because we see no reason to believe, that the future negociation of the plenipotentiaries will, in the next eight months, obtain the admission of those rights, insisted upon in our former Address, which the instances and representations made to the court of Spain last year, supported by the resolution of parliament, and a powerful fleet, have not been able as yet to procure.

5. "Because we apprehend, the Spaniards do not think themselves bound by this Convention to abstain from their unjust methods of proceeding; since it was proved at the bar of this House, that captain Vaughan, a commander of a British ship, having been unjustly taken by a Spanish man of war, his ship confiscated, and he imprisoned at Cadiz, was, at the time of signing the Convention, detained in prison there, and not released in several weeks after, notwithstanding the representation of the British plenipotentiary at the court of Spain.

6. "Because we conceive, that the reparation pretended to be made to our merchants, by this Convention, for the grievous losses they have sustained during a course of many years, is insufficient; the dark accounts of this transaction, laid before us, have not been fully explained, nor any satisfactory reasons given us why their demands, stated in an account signed June the 14th, 1738, by Mr. Stert, one of the commissaries, at 343,277*l.* should be so greatly reduced.

7. "Because, as we apprehend, we are to allow 60,000*l.* to the king of Spain, chiefly on account of the ships taken near Sicily in the year 1718; though it hath appeared to the House, from the instructions given to the commissaries after the treaty of Seville, signed by his Majesty, now lying before us, that the articles of the treaty concluded at Madrid in 1721, upon which that claim of the Spaniards is founded, had been fully executed on the part of the crown of Great Britain.

8. "Because the referring the limits of Florida and Carolina to the plenipotentiaries, seems to call in question our right to possessions, which we have so long uninterruptedly enjoyed, seven eighth-parts, or shares, of which, the nation, at a considerable expence, hath, not long since,

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purchased of the proprietors under the two original grants of king Charles 2, a certain district whereof, called Georgia, in honour to his present Majesty, hath been erected into a new colony, and granted to trustees for laudable purposes; for the establishment and improvement of which, considerable sums have been granted by the public: and moreover, it being stipulated by the present Convention, that no fortification there shall be encreased, during the term of eight months, we apprehend, that the regiment lately raised for the defence of that colony, and also the engineers and stores, which, at a considerable increase of the public expence, have been sent thither, will not only remain useless, but, if a peace should not be procured within that period, will, at the end of it, be exposed, together with the colonies, to the violence and irruption of the Spaniards.

9. "Because we apprehend the British minister's acceptance of the Declaration signed by M. de la Quadra, January 10, 1738-9, said to be agreed with reciprocal accord, hath allowed his Catholic Majesty to reserve to himself, in its full force, the right of being able to suspend the assiento of negroes, in case the South Sea Company doth not subject herself to pay, within a short time, the sum of 68,000*l.* pretended to be owing on the duties of negroes, and profits of the ship Carolina, though that sum was never otherwise acknowledged to be due, than as part of a plan of accommodation, wherein a much larger sum was admitted to be due to the said company, whereby we apprehend the king of Spain may think that great company is put out of the protection of his Majesty, as to this point, and left to his own mercy and equity; whereas, if the Convention, as it now stands, had been signed without the acceptance of the declaration, the king of Spain would have had no pretence, as we conceive, to suspend the assiento; and therefore we apprehend, that the said declaration will be looked upon as a defeazance of the said treaty, as far as it relates to the South Sea Company, which appears to us a dishonourable collusion, hurtful to public credit.

10. "Because we do not find any satisfaction has been obtained by the Convention, for the frequent cruelties and barbarities exercised on the British sailors, nor for the many insults offered to the British flag; which we are apprehensive may be thought an insensibility of the sufferings of a body of men, highly useful to the trade, and necessary to the defence of these kingdoms, and a great neglect of the honour of the nation.——*(Signed)* Graham, Huntington, Burlington, Chesterfield, Montjoy, Macclesfield, Stanhope, Northampton, Clifton, B. Lincoln, Bristol, Raymond, Winchelsea, Thanet, Bruce, Gainsborough, Beaufort, Cobham, Abington, Masham, Strafford, Westmoreland, Ker, Aylesford, Greenwich, Oxford, Clinton, Foley, Haversham, Shaftsbury, Litchfield, Gower, Suffolk, Maynard, Coventry, Boyle, Carteret, Talbot, Bathurst."

DEBATE IN THE COMMONS ON THE CONVENTION WITH SPAIN.] March 6. This being the day appointed by the Commons for taking the Convention with Spain into consideration, the members repaired so early to the House, that it was computed that one hundred had taken their seats by eight in the morning. The House at last being resolved into a Committee of the whole House, to take into consideration the Convention between Great Britain and Spain, several West India merchants and planters were heard against it. These gentlemen having communicated to the House what they had to offer against the Convention, several witnesses were ordered to attend, and papers to be read, which took up all that and the following day.

March 8.* The House having again resolved itself into the same Committee,

Mr. *Horace Walpole* spoke to the following purport†:

Sir; the great pains that have been

* The whole of this day's Debate is taken from the London Magazine.

† "Among the Orford Papers, are a few parliamentary memorandums, in the handwriting of sir Robert Walpole, taken by him during the first debate on the Convention. They are minutes of part of Horace Walpole's speech, sir Thomas Saunderson's, and Mr. Pitt's. Though short and imperfect, they sufficiently prove the general accuracy of the speeches, given by Chandler, on that occasion." Coxe's Memoirs of sir R. Walpole.

"March 10. I sit down to satisfy your curiosity as far as I am at present able. The grand question was not determined in the

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taken to influence all ranks and degrees of men in this nation, against the late measures of his Majesty's administration, and the prejudices which some gentlemen even in this House may entertain against that measure which is now under our consideration, make it necessary for me to endeavour to remove these prejudices before I make that motion, with which I intend to conclude.

I shall begin, Sir, with this general observation, that when differences arise between two nations, an immediate declaration of war seldom is, and never ought to be, the first resolution of either. If those differences proceed from any dispute about a matter of right, justice and humanity require that endeavours should be used to have those disputes determined in a peaceable way, each party making reasonable concessions to the other, before recourse be had to the deceitful and uncertain fortune of war; and if they relate to injuries done, or violences committed, the same justice and humanity require that satisfaction should be asked in an amicable manner by the party offended, and peremptorily denied, or unreasonably delayed, by the party offending, before hostilities are resolved on. And this method of proceeding is founded not only upon the dictates of reason and humanity, but in the case between us and Spain upon the positive words of treaties.

But the expediency and justice of this, Sir, are still greater when the affronts or injuries offered proceed only from private subjects; because the honour of no nation can be injured but by another, by some public or national act; therefore, when any injury is done, or affront given by the subjects of one state to those of another, the state whose subjects have been injured, ought to apply to the other for satisfac-

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House of Commons till nine o'clock last night. I having attended this morning at the office, (but no board there,) and being engaged for this afternoon with uninforming sort of company, cannot be very minute or particular: what I can tell you is in general as follows: Tuesday and Wednesday were taken up in hearing merchants, and examining Mr. Stert: no division either day. Thursday, at noon, the debate began in the committee. Mr. Walpole moved for addressing the king to the same purport as the Address of the Lords. He spoke more than two hours; was seconded by Mr. Campbell, who acquitted himself very well. The debate is said to be a very good one, and decent, except the speeches of three or four young gentlemen, who took great personal liberties. The speakers were in this order, as it was reported to us yesterday morning by sir Thomas; but I have since heard that lord Cornbury spoke, and imagine it was after Mr. Lindsay.

1. Mr. Walpole.
2. Mr. Campbell.
3. Mr. How.
4. Mr. Knight.
5. Mr. Henry Fox.
6. Mr. Lyttleton.
7. Sir H. Lyddalle.
8. Mr. Pitt.
9. Sir John Barnard.
10. Mr. Pelham.
11. Mr. Grenville.
12. Sir Cha. Wager.
13. Mr. Shippen.
14. Mr. Selwyn, jun.
15. Mr. Waller.
16. Mr. Cornwallis.
17. Dr. Lee.
18. Mr. Bootle.
19. Mr. Lindsay.
20. Mr. Bohun.
21. Attorney General.
22. Sir W. Wyndham.
23. Lord Tirconnel.
24. Sir Rob. Walpole.
25. Sir T. Saunderson.
26. Lord Gage.

The House divided between twelve and one at night. The numbers were, Ayes 260; Noes 232. It is apprehended that several pairs went away. Mr. Pulteney declared that he was so much fatigued with the attendance, that he could not attempt to speak so late; but intended to give his reasons for disagreeing with the motion, upon the report. Accordingly he began the debate yesterday, which I hear was a very hot one, and that he declared, if the motion was agreed to, he would quit the service of the House; and that Mr. Sandys and sir William Wyndham threatened in some measure the like. I hear too that there were some high words between the latter and sir Robert Walpole, but cannot make much of that report. The speakers yesterday, we are told, were the following, but do not know in what order they spoke, except that Wynnington answered Mr. Pulteney exceedingly well; and so did sir William Yonge Mr. Fazakerly, and sir Robert Walpole sir William Wyndham.

Mr. Wynnington,	Mr. Pulteney,
Colonel Mordaunt,	Mr. Walter Plummer,
Solicitor-general,	Mr. Ereskine, brother
Mr. Tracey,	to late lord Marr,
Mr. Hervey,	Sir Edmund Isham,
Lord Glenorchy,	Mr. Willimot,
Lord Advocate,	Lord Baltimore,
Sir William Younge,	Mr. Ord,
	Sir John Cotton,
Sir Robert Walpole,	Mr. Fazakerley,
	Mr. Sandys,
	Sir Wm. Wyndham.

"The division was at nine o'clock,

Yeas - - - - -	244
Noes - - - - -	214
Majority - - -	——30

"A great many went away in pairs. Fifteen Scotch members were in the minority; eleven of which they say are generally so; and four placed to the duke of Argyle's account." Mr. Orlebar to the rev. H. Etough: Coxe's Memoirs of sir R. Walpole: Correspondence, vol. 3, p. 516.

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tion, and ought not to look upon its honour as any way affected, till the state, whose subjects committed the violence, has made the act its own, by refusing to punish the transgressors, or to make reparation for the damage sustained.

Gentlemen I observe, in talking of the differences between Spain and us, affect to talk a great deal of the honour of this nation. I would be as jealous of the honour of this nation as any gentleman; but give me leave to say, that true honour ought to be founded upon justice and humanity. Ambition or interest may prompt some nations to make conquests, and such nations may, and do often break through this established rule of justice and true honour, by laying hold of the most frivolous pretence for engaging in war, without any previous application for an accommodation. But as it is not the interest of this nation to make conquests, and, as I hope, our ambition will never provoke us to act contrary to our interest, we can therefore have no motive for transgressing this rule, with regard to the differences that may arise between us and any nation in Europe.

Upon this maxim, Sir, and in this light, if we consider the treaty now before us, I believe it will appear to be not only a just and honourable measure, but the only just and honourable measure we could take, with regard to the differences now subsisting between us and Spain; some of which are such as proceed from disputes that have lately arisen about matters of right; and the rest are such as proceed from the violences and depredations that have been committed by some of the subjects of that kingdom against the subjects of this. As the matters of right which are in dispute are of great consequence to us, as Spain had little or no reason to raise any dispute about them, and as their depredations have been great and frequent, if it had been our interest to endeavour to conquer any part of the Spanish dominions, or if his Majesty had been influenced by ambition, and a pursuit after a glaring but false renown, he might, and probably would have laid hold of these differences, as a just pretence for declaring war against Spain, without the least attempt to have them reconciled by amicable means; but as it is not the interest of this nation to make conquests, his Majesty considered the peace and happiness of his people as the most solid foundations of his glory; therefore he often applied before last summer to the court of Spain for having the differences subsisting between the two nations accommodated in a friendly manner, which that court always found some excuse or another for delaying; but at last his Majesty, upon the application from both Houses of Parliament last session, made a peremptory demand, and insisted upon a speedy and categorical answer; and till that answer should arrive, his Majesty resolved, according to the maxim I have mentioned, and according to the advice of his parliament, to suspend all kind of hostilities. When the court of Spain saw that the affair could be no longer put off with safety, they appeared willing to enter immediately into a serious disquisition of the rights that were in dispute; and to shew themselves in earnest, they proposed to have the account between the two nations immediately settled, and to pay, in a short time, whatever should appear to be due from them on account of any depredations upon the balance. From hence his Majesty justly conceived, that there was a probability of having all our differences accommodated, and therefore he could not in justice or honour commence hostilities, or refuse to accept of a preliminary Convention, by which we were to obtain satisfaction for all past injuries, and by which we were to be put into the most probable method, nay, the only method that could be proposed, for obtaining in a short time a full security against all future.

To this I must add, Sir, that his Majesty's agreeing to this preliminary Convention, and resolving to suspend hostilities, till he should see what effect this preliminary might produce, was not only the justest and the most honourable measure he could pursue, but it was agreeable to, and in some measure a necessary consequence of, the advice given him last session by both Houses of Parliament. By the addresses presented last session, upon occasion of our differences with Spain, his Majesty was advised to use his royal endeavours with his Catholic majesty, to obtain effectual relief for his injured subjects; and assured, that in case his royal and friendly instances for procuring justice, and for the future security of that navigation and commerce, which his people had an undoubted right to by treaties and the law of nations, should not be able to procure from the equity and friendship of the king of Spain such satisfaction, as his Majesty might reasonably expect from a good and faithful ally, the parliament would effectually support his Majesty in taking

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such measures, as honour and justice should make it necessary for him to pursue. Now, Sir, if by this Convention his Majesty has got such reparation, and such security, as he could reasonably expect, it must be allowed, that his refusing to accept of it would have been acting directly against the advice given him by parliament; and that we have got as much reputation, and as much security, as any reasonable man could expect by a preliminary Convention, I shall now endeavour to shew.

With regard to reparation, Sir, for past injuries, it is not only finally adjusted, but a certain sum promised to be paid within a very short time after the exchange of the ratifications. As there were mutual demands with respect to damages sustained, it became necessary to settle and balance the account; for I am sure no reasonable man could expect, that we should receive full reparation for all the damage done to us by Spain, and allow nothing for the damage that had been done by us to that nation. Upon examining therefore, and stating our mutual demands, it appeared that our demands upon Spain, according to a calculation made by our own commissaries, amounted to 200,000*l.* and that the demands of Spain upon us amounted to 60,000*l.* so that there was a balance due to us of 140,000*l.* which sum his Catholic majesty proposed to pay to us, by giving assignments upon his revenues in America, being the only means he had for paying so large a sum; but as we knew the tediousness and precariousness of that fund, it was proposed to make an allowance for prompt payment, if his Catholic majesty would engage to pay the money in a short time here at London, and the allowance agreed on was 45,000*l.* which reduced the sum due to us to 95,000*l.* and this sum his Catholic majesty has expressly promised, by this Convention, to pay here at London in four months after the exchange of the ratifications. From hence it appears, Sir, that we have not only got all the reparation any reasonable man could expect, but all the reparation we could with any pretence of justice insist on. For though there were perhaps some other small articles, which we might have added to the sum of our demands, yet it must be allowed, they were such trifles, as not to be worth minding in a transaction between two powerful nations; and if we had insisted on them, it would have been easy for Spain to have balanced them with articles of the same kind, which were not at first brought into her account.

Now, Sir, as to our future security, every man that understands what it means must know, that it depends entirely upon those matters of right that are now in dispute between Spain and us; and that therefore it cannot be clearly and effectually provided for, till those rights are particularly examined into, and fully explained. But could any reasonable man expect, that it was possible to do this in a few weeks, or by a preliminary Convention? It is a discussion that depends not only upon several disputable points in the law of nature and nations, but likewise upon several facts and circumstances that must be enquired into, and this enquiry can be made in the West Indies only. For this reason we could not so much as desire Spain to do more than they have done. They have agreed to refer this discussion to plenipotentiaries, and that those plenipotentiaries shall be obliged finally to decide the affair within the short term of eight months; which is all we could expect, and all we could with any justice or reason desire. Therefore, if there had not been one word in this treaty, from whence it could be presumed that Spain had passed from, or given up any of those rights she has lately set up, yet the treaty might have been said to be a good preliminary, and such a one as his Majesty ought to have accepted of, rather than engage the nation in a war. But this is not the case: the principal right Spain pretends to, and the most destructive right for this nation to submit to, is that of searching our ships on the open seas of America, and making prize of them, in case any Spanish money or effects be found on board. This right Spain has, even by this preliminary, in effect given up. That of searching our ships upon the open seas, they have allowed to be a cause of complaint, which, if not stopped and prevented, might occasion an open rupture between the two crowns: they have allowed it to be a grievance, which ought to be removed. Can the exercise of a just right be allowed to be a cause of complaint? Can it be allowed to be a grievance? Whoever does so, disclaims the right; and therefore we must conclude, that Spain has, even by this preliminary, in effect disclaimed the right of searching our ships upon the open seas of America, which to me is a strong indication that they intend to disclaim it by the

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definitive treaty, in the most express terms we can propose.

Sir, the court of Spain has not only acknowledged the searching our ships on the open seas, and confiscating them for having Spanish money or effects on board, to be a grievance which ought to be removed, but they have in some measure directly owned it to be wrong: they have allowed it to be an injury, by giving us reparation for what our merchants have suffered by that practice. Therefore the plenipotentiaries appointed by this Convention are not to determine whether it be a grievance or not: this is a point which is not referred to their discussion: it is already determined: they are only to consider, contrive, and adjust the proper methods for removing it; and in this too they are circumscribed; for the regulations they are to contrive and agree on for this purpose must be according to the treaties now subsisting between the two crowns; and those regulations must be contrived and fully settled within eight months after their first meeting, which is to be but six weeks after the exchange of the ratifications; so that the affair must be finally concluded before the middle of November next. Therefore the chief question now seems to be, whether we ought to go to war, rather than grant the court of Spain a delay of eight months, for giving us full satisfaction and absolute security; and I do not think that any man who considers the present circumstances of Europe, or the present circumstances of this nation, would be for involving his country in a dangerous and expensive war, rather than grant such a delay.

War, Sir, let the prospect of success be what it will, is both a dangerous and a destructive expedient to any nation, especially a trading and industrious nation: it is the bane of trade, and the parent of idleness. It gives your neighbours an opportunity to undermine you in several branches of your trade, and draws a great many of your own people away from useful labour and industry, not only during the war, but for ever; for those who have been, for but a few years, accustomed to live in idleness, by rapine and violence, can never afterwards submit to get their bread by the sweat of their brow. Besides, it may prove dangerous to your liberties: for supporting and carrying on a war with vigour, great armies must be raised: when the war is ended, you may perhaps find it difficult to disband your armies: the generals will be against it; and the soldiers, having lost the hopes of living by the plunder of their enemies, may resolve to live by the plunder of their country. War therefore, even with the most flattering prospect of success, ought to be avoided by a trading, free country, if possible. The event is doubtful, let the hopes of either party at the beginning be never so well founded. It is not the first time we have heard of the event of a war's turning out contrary to all human appearances. We have a fresh instance of this before our eyes. All Europe thought the emperor engaged in the war against the Turks with great odds on his side; but we find ourselves disappointed in our expectations; the odds are already turned against him, and little hopes left of his coming off with honour, much less with advantage.

Whoever considers these things, Sir, must think, that if the circumstances of affairs in Europe were entirely favourable for us, if our own circumstances were as happy as we could wish, we ought not wantonly to engage in a war: but when we consider that the circumstances of Europe were never in a more unhappy situation for us than at present, and that our own circumstances are far from being in a happy situation, who is it will say, a war is not by all means to be avoided? The powerful kingdom of France is now in greater vigour than ever it was since the reign of their Charles the great; it is now governed by wise counsels, and in perfect unity and concord within itself. The king of France is bound, not only by interest, but by the ties of blood, to assist the king of Spain; and as an addition to this obligation, there is now forming, for aught I know, already concluded, a treaty of alliance between them. If we declare war against Spain, we must therefore expect that France will take part with Spain against us; and though I have so good an opinion of my country, as to think we are more than a match for the one, and at least an equal match for the other, yet I cannot be so vain as to think we are an equal match for both; and consequently, I must think, we have reason to be afraid of sinking under the burden, unless we can get some of the other great powers of Europe to assist us.

Let us now look round Europe, Sir, and we shall find with regret there is not at present any one of the powers thereof, on whom we could, in such a case, depend

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for an effectual assistance. The House of Austria is now in so weak a condition, and so much reduced by the misfortunes they have met with in their war against the Turks, that they could not, if they would, afford us any assistance; and if they could, it is a question if they would; for their counsels seem at present to be too much directed by French influence. The Dutch are at present in a poor and helpless situation; for though the subjects of most of the United Provinces are rich and in affluent circumstances, their government is extremely low, and almost all their public revenues mortgaged or anticipated; which makes them backward to engage in war: that though they have met with as bad treatment from Spain as we have done, though as many Dutch ships, in proportion, have been unjustly seized by the Spaniards, yet have they never yet attempted, nor do they seem to have the least inclination to resent these injuries in any hostile manner. The princes of Germany are now contending amongst themselves about the succession to some parts of the palatinate; and that contention may perhaps break out into an open rupture. Of the princes of Italy, the two most potent may probably be engaged in the alliance against us; and the king of Portugal dares not assist us, I even doubt if he would dare to admit our men of war into his ports. Then, if we look Northward, of the two Northern kingdoms, the most powerful seems already to be united against us; and the Muscovites, if they were inclined, are at too great a distance to afford us any relief. Thus, Sir, we are at present without any one ally upon the continent, that would give us assistance; and in case of a war, the two most potent kingdoms in Europe would probably be united against us; nay, I do not know but that the greatest part of Europe would unite against us; and when the affairs of Europe are in such circumstances, would it not be the height of madness in us to engage in war, if we can by any art, or by any means, avoid or delay it?

But this, Sir, is not our only misfortune at present. Our domestic circumstances are far from being in such a condition as may encourage us to engage in war. Our people are already taxed almost as much as they can possibly bear; and most of those taxes mortgaged for paying the debts we contracted in the late war: the overplus of our public revenue is hardly sufficient for supporting our civil government in time of peace. If we go to war, we must lay on new or additional taxes; this will increase those animosities and divisions that now prevail too much amongst us; and will cause that party to raise its head, which has not dared to look up for near twenty years past. If we go to war, our enemies will certainly endeavour to bring us into confusion at home, by embracing the cause of the Pretender: the war itself will be made the cause of the Pretender; and when our people find every year new loads of taxes laid upon them, many of them may begin to ascribe all the misfortunes they labour under, to the illustrious family now upon our throne, which will make them ready to join any number of foreign troops that shall invade us, with the Pretender at their head. If France and Spain should join against us, it will be impossible for us to guard our coasts, by means of our navy, so closely, as that it may not be in their power to throw a few regular troops into some part of the island; and this might give us so much to do at home, that we should neither have leisure nor power to distress our enemies, or protect our plantations abroad.

I have as just a sense as any man can have of the sufferings of our merchants, and of the indignities that have been put upon the nation by the Spanish Guarda Costas; but national resolutions, Sir, ought not to be directed by passion: we may, we ought to shew a proper resentment; but our resentment ought to be governed by prudence; and if it is, we must suspend shewing it, till a change in the circumstances of Europe presents us with a favourable opportunity, which, in all probability, we shall not be long obliged to wait for. Therefore, if this Convention had not been so favourable as it appears to be, his Majesty ought, I think, in the present conjuncture, to have accepted of it. This is the opinion I must form, from the view I have of the present posture of affairs, and from circumstances that are publicly known; but his Majesty may know many circumstances which we do not know, and which he cannot communicate to this House; and therefore in such cases, we ought to be extremely cautious of refusing our approbation to a measure which his Majesty has thought fit to approve of. Such a caution would have been necessary, even though this Convention had appeared to have been altogether unsatisfactory; but I have shewn, I think,

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that we have got by it all that could be reasonably expected by a preliminary treaty; from whence we have good reason to hope, that in eight months time we shall obtain by a definitive treaty all we can desire, which is a delay, I am sure, not worth our while to go war for. Therefore, I must think, I am fully warranted in what I am to propose, which is, "That an humble Address be presented to his Majesty, to return his Majesty the Thanks of this House, for having been graciously pleased to communicate to this House the Convention, together with the separate Articles, lately concluded between his Majesty and the king of Spain; to express our most grateful acknowledgments for his Majesty's particular care and tender regard for the interests of his people, in having obtained, by the said Convention, a final adjustment of their long depending demands for the losses they had sustained, and an express stipulation for a payment to be made them, in a short time, upon that account; to declare our satisfaction in the foundation which his Majesty has laid for preventing and removing the like grievances and causes of complaint for the future, and for preserving the peace between the two nations; and our reliance on his Majesty, that, from his constant attention to the honour of his crown, and the undoubted rights of his people, effectual care will be taken, in the solemn treaty to be made pursuant to this Convention, that the freedom of navigation in the American seas may be fully secured and established for the future; and that his Majesty's subjects may enjoy, unmolested, their undoubted right of navigating and trading to and from any part of his Majesty's dominions, without being liable to be stopped, visited, or searched, on the open seas, or to any other violation of the treaties subsisting between Great Britain and Spain, as the only means to preserve, upon a lasting foundation, a good correspondence and friendship between the two Crowns; and that, in regulating and settling the limits of his Majesty's dominions in America, in the treaty to be made with Spain, the greatest regard will be had to the rights and possessions belonging to his Majesty's crown and subjects; and to assure his Majesty, that, in case his Majesty's just expectations shall not be answered, this House will, with the greatest zeal and cheerfulness, support his Majesty, in taking such measures as shall be necessary to vindicate his Majesty's honour, and to maintain his subjects in the full enjoyment of all those rights which they may justly claim by treaty, and the law of nations."

Mr. *Campbell* of Pembrokeshire:

Sir; I stand up to second the motion which the hon. gentleman near me has been pleased to make; and I second it, because, I think, the necessary consequence of our not agreeing to it, would be an immediate war. Now, as I think we have got by this Convention as much as we could expect by a preliminary Article, for with respect to our future security it can be called nothing else, nor was it possible in so short a time to make it any thing else; and, as I think, that the Court of Spain's agreeing to this Convention, especially that part of it which stipulates an immediate reparation, furnishes us with a strong presumption that they are inclined to do us justice, and that we shall in a short time obtain sufficient security for the freedom of our trade and navigation in time to come; therefore, I must think a war quite unnecessary, and no war can be just that is not necessary, nor can any war be honourable that is not just.

This consideration, Sir, convinces me, that we ought to approve of this Convention; and my hon. friend has taken care to put some words or expressions into the Address he has been pleased to propose, which, in my opinion, will obviate the only material objection I have heard made to this treaty. Our merchants seem to think, that our rights and possessions in America are not sufficiently secured to us by the terms of this preliminary; and therefore they apprehend, that some of them are to be given up by our plenipotentiaries. These apprehensions, I think, there can be no ground for, from any word or expression in this preliminary; nor can any man entertain such a thought, if he considers the inviolable attachment his Majesty has always shewn for the rights and privileges of his people, and that our plenipotentiaries can do nothing without his order, nor finally agree upon any thing without his approbation; but if it were possible to apprehend, that any of our rights or possessions are in danger of being lost, or given up by the definitive treaty that is to be concluded in pursuance of this preliminary, even that possibility must be taken away, by our declaring, in the Address proposed, our reliance on his Ma-

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jesty, that from his constant attention to the honour of his crown, and the undoubted rights of his people, effectual care will be taken, that the freedom of navigation in the American seas may be fully secured and established for the future; and that in regulating and settling the limits of his Majesty's dominions in America, the greatest regard will be had to the rights and possessions belonging to his Majesty's crown and subjects.

By these words, I say, Sir, the very possibility of apprehending any danger to our rights or possessions must be effectually removed; for after such a full and explicit declaration of parliament, what minister will dare to advise his Majesty to give any instructions, or to ratify any treaty, for giving up, or incroaching in the least upon, any of our rights or possessions in America? Therefore, I think no one good reason can be assigned for our refusing to give such an approbation to this Convention, as the hon. gentleman has been pleased to propose; for really, in my opinion, it looks more like a declaration of what we expect by the solemn treaty that is to be concluded, than an approbation of the preliminary that has been already concluded.

Sir *Thomas Sanderson*:

Sir; the great design, and the chief use of parliaments, is, to present to our sovereign the opinions as well as grievances of the people; and this House in particular is designed as a check upon ministers, and as a sort of mirror, in which the counsels, the actions, and the measures of ministers are to be truly and faithfully represented to their master. In absolute monarchies the king can never know, by any legal means, whether the measures he is advised by his ministers to pursue be agreeable to his people: he can never be informed of their being disagreeable, but by the insurrections or rebellions of the people, which generally end in the destruction of a great many subjects, and often in the ruin of the sovereign. This is a misfortune that in this kingdom we shall always be free from, while we have parliaments, and such parliaments as are independent of the administration. But if ever our parliaments should come to be under the direction of the minister, for the time being, they would be useless, they would be pernicious; because they would be made use of only for imposing upon the king with the greater assurance, and for oppressing the people with the greater security. Therefore, I hope, that in this House we shall upon all occasions talk to our King, not in the language of his ministers, but in the language of truth, in the language of his people. For this reason, while I have the honour to have a seat here, I shall never join in any address to the throne that may in the least contribute towards inducing my sovereign to form such an opinion of any public measure, as may be contrary to the opinion I have, upon a thorough enquiry, formed of it, and contrary to the opinion which, I know, the people in general have formed of it. The Convention now before us, in my opinion, is the most dishonourable, the most deceitful, the most ruinous Treaty this nation ever made: I will be bold to say, that 99 out of 100 of the people are of the same opinion; and shall I agree to an Address, which must make the King believe, if he believes what we say, that it is an honourable, fair, and advantageous Treaty?

The hon. gentleman and his friends may, if they please, Sir, call the latter part of the Address he has proposed, a declaration of what we expect by the solemn treaty that is to be concluded; but the first part is a downright approbation of the Convention; and is therefore inconsistent with the latter; for it would, in my opinion, be ridiculous in us to say, we expect or hope for any thing from a solemn Treaty that is to be concluded in pursuance of a Preliminary, by which every thing we have to expect, or hope for, is previously given up, and almost expressly surrendered. Out of the regard I have, and I hope, shall always have for his Majesty, I must, in examining the Address proposed, leave his name out, and substitute in its room, the name or term minister, or negociator. Shall I, Sir, upon occasion of this Convention, express my most grateful acknowledgments for the minister's, or negociator's particular care, and tender regard for the interests of the people, when I think that in negociating and agreeing to this Convention, he has shewn no care, no regard for, but on the contrary has sacrificed, I shall not say betrayed, the most valuable, the most sacred rights of his country? Shall I say, that a final adjustment of our long depending demands has been obtained by this Convention, when I see, that instead of adjusting, we have released them? Shall I say, that any payment is to be made by Spain upon that account, when it appears that Spain is not

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to pay one single groat, when it appears that no one shilling is so much as stipulated, but what is to be paid by one part of our own subjects to another? Or, shall I say, I am satisfied with the foundation the minister or negociator has laid, for preventing the like grievances and causes of complaint for the future, when I am convinced that, by this Convention, a foundation is laid for increasing them, and for rendering them perpetual? God forbid, Sir, that any member of this House should behave in such a slavish manner towards the minister, or in such a deceitful manner towards his Sovereign.

I shall allow, Sir, that when differences arise between two nations, war ought not to be resolved on till application be first made for having them removed by a friendly accommodation; but that application ought to be made in an honourable manner, and suitable to the dignity of the nation that makes it. If the matters of right that are begun to be disputed, be such as are really doubtful, a negociation may be set on foot for having them explained; but to dispute the most undoubted rights, rights that are established by the law of nature as well as by particular treaties, is one of the greatest insults that can be put by one nation upon another; and therefore, the only application that can be made is a peremptory demand for having them acknowledged in the most explicit terms: to negociate, or to treat about such rights, is to betray them. Again, when violences are committed by the subjects of one nation upon those of another, satisfaction may be demanded, nay, I shall grant that it ought to be demanded in a peaceable manner, before resolving to take satisfaction by force of arms; but this satisfaction ought to be required, not sued for; and much less sued for again, after many affected delays or sham excuses: to require satisfaction in a peaceable but dignified manner is prudent, is commendable; but to sue and solicit for it is mean, abject, and dishonourable; and when a nation continues to sue for it, under frequent repetitions of the same sort of violences, it is ridiculous, it is mischievous.

This, I am afraid, is our case with regard to Spain. We have negociated about our undoubted rights, we have sued for satisfaction, and have so long continued negociating, that we have at last rendered ourselves ridiculous and contemptible. In this opinion I am confirmed by the Treaty now under our consideration; a Treaty which they seem to have imposed upon us as the coup de grace to that character we formerly had among the princes and potentates of Europe. After disputing with us such undoubted rights, and committing so many and such unheard-of depredations upon our merchants, if they had not had the utmost contempt of our understanding, as well as power, it was impossible they could have thought of imposing such a Treaty upon us: a Treaty by which they have, under the pretence of giving us a foundation for obtaining future security, obliged us to give up those rights upon which it depends; and instead of giving us reparation, they have obliged us to give them a general release; nay, farther, they have obliged us to give up to them, for much less than the true value, five British ships and their cargoes, which they had, before this Treaty was thought of, obliged themselves to restore. If they had given us a flat denial, if they had absolutely refused to give us any security or reparation, it would have been shewing a contempt of our power only; but to presume to palm upon us such a sham security, and such a fallacious sort of reparation, is shewing the utmost contempt of our judgment, as well as our power. As yet the contempt can fall upon our negociators only: but if this House should give any thing like a sanction to such a Treaty, the contempt must fall upon the nation, or at least upon that which is called the wisdom of the nation.

In order, Sir, to make good what I have said, I must beg leave to consider what we ought to have had, and whether we have got, by this treaty, so much as the hopes of obtaining any one thing we ought to have had. I believe every gentleman will allow, that we ought to have had some satisfaction for the many insults the Spaniards have put upon the crown and flag of Great Britain. To some this may appear to be merely a point of honour; but to me it appears so material, that I think we can have no future security without it. No treaty, no regulations you can make, will, in my opinion, signify any thing, without some exemplary satisfaction; for the Spanish governors and captains of guarda costas in America will shew no regard to any treaty or regulations you can make, if they find they may transgress them with impunity. Whereas, if some of those governors and captains that have robbed our merchants had been hanged, as they highly deserve, and their

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bodies hung up in chains, upon the most conspicuous capes of Cuba, Hispaniola, and Porto Rico, it would have shewn all such for the future what they were to expect, if they insulted the crown, or injured the subjects, of Great Britain. But the court of Spain, being resolved to grant nothing that might any way contribute to our future security, resolved not to allow the word satisfaction to be so much as once mentioned in this treaty; even the Spanish pirate who cut off captain Jenkins's ear, making use at the same time of the most insulting expression towards the person of our King, an expression which no British subject can decently repeat, an expression which no man that has a regard for his Sovereign can ever forgive: even this fellow, I say, is to live to enjoy the fruits of his rapine, and remain a living testimony of the cowardly tameness, and mean submission of Great Britain, and of the triumphant pride, and stubborn haughtiness of Spain.

This alone, Sir, is sufficient to shew, that we can have no hopes of any future security; and yet a future security for the freedom of our trade and navigation was what we ought principally and peremptorily to have insisted on; but our negociating ministers have not satisfied themselves with neglecting it, they have almost expressly, by this preliminary, given it up: they have almost expressly given up the rights upon which it depends, by referring them to be regulated by plenipotentiaries; for if we consider the nature of those rights in dispute between Spain and us, upon which our future security depends, we must see that, if the right we pretend to be regulated, it must be surrendered, and that if the right Spain pretends to be regulated, it must be established. The right we pretend to, the right which, I hope, the nation will never depart from, whatever our negociators may do, is a right to a free navigation in the open seas of America: this right the Spaniards, trusting to our feebleness, or our fondness for negociation, have taken upon them to deny: they say, we have no right to any navigation in the American seas but what they have granted us by treaty, which is only whilst our ships steer a direct course from one part of the British dominions to another. For God's sake, Sir, what is it, in this case, our plenipotentiaries are to regulate? are they to regulate what shall or shall not be called a direct course? if we agree to any such regulation, can we afterwards say, we have a right to a free navigation? does not every gentleman see, that if this right be regulated, it must be given up?

On the other hand, Sir, Spain pretends to a right to search our ships in the open seas of America, and to seize and confiscate them, if they be found sailing out of their due course, or if any goods, which they are pleased to call contraband, be found on board. Does not every gentleman see that this right must be granted, must be established, before it can be regulated? therefore, it may be justly said, that, by this preliminary, we have surrendered the right we pretend to, and established the right the Spaniards pretend to; or at least, that we have laid a foundation for expressly surrendering the one, and establishing the other, by the solemn treaty that is to be concluded in pursuance of this preliminary. This is the least we have done by this preliminary; and that is the more dishonourable, the more scandalous, because the right we pretend to, is a right established by the law of nature, enjoyed by all nations, and confirmed to us by every treaty subsisting between the two crowns: whereas, the right the Spaniards pretend to, is a servitude, which no nation ever pretended to impose upon another, nor did ever the most contemptible nation under the sun submit to it. To which I must add another misfortune, that all the regulations that can, in either of these cases, be established, are to be explained and judged of by Spanish governors and captains of guarda costas; and therefore, we may from their past behaviour conclude, that every British ship they meet with in the seas of America will be adjudged to be a trespasser against some of these regulations, and consequently liable to confiscation.

Thus, Sir, it appears, we have negociated, we have treated away all hopes of future security; and now I shall make it appear, we have done the same with respect to reparation for past injuries. By a commissorial way of reckoning our negociators reduced the demands of their country to 200,000*l.* and this sum, allowing a trifle, as they say, for prompt payment, they pretend to have obtained for us: but how have they obtained it? they allow Spain to deduct 60,000*l.* on account of a most frivolous demand they set up against us, and before Spain pays any thing to us they have allowed them to extort in the most unjustifiable manner from

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our South Sea Company 68,000*l.* These two sums reduced what Spain was to pay to us, by way of reparation, to 72,000*l.* and from this sum they have allowed them to deduct 45,000*l.* a pretty modest allowance, for prompt payment: then there remains but 27,000*l.* and for this they have allowed them to detain, and convert to their own use, five British ships, which the king of Spain had before promised to restore, and had actually sent cedulas to the West Indies for that purpose; which five ships, I mean those mentioned in the 4th article of this treaty, were worth 30 or 40,000*l.* Does not every one see, Sir, that instead of our getting any reparation by this treaty for past injuries, we have really allowed the Spaniards to keep to the value of at least 3, if not 13,000*l.* of what they had before obliged themselves to restore? and this, I suppose, our negociators allowed them by way of a reward for their allowing the sham, stipulated payment of 95,000*l.* to be mentioned in this treaty. In consideration of which sham, stipulated payment, we have given them a general release for all demands, and all past injuries. Sir, if we had freely given them a general release, we might have had something to boast of: we might have bragged of our generous and forgiving temper; but to be thus choused out of all our just demands, must make us the ridicule of every foreigner that hears of it. Can such a sham reparation, such a lumping bargain as this, be said to be an acknowledgment in the Spaniards of their having been in the wrong to us? so far otherwise, that it must be supposed, they insisted upon our lumping away our demands in this manner, on purpose to avoid their being obliged to acknowledge themselves in the wrong, or to acknowledge that any of our ships had been unjustly searched, seized, or confiscated, except the five ships they had before acknowledged to be so; and provided we would allow them to keep these five ships, I suppose they were willing to agree, to allow us what they valued them at by way of reparation.

This, Sir, is in reality, whatever we may pretend, the only reparation we are to meet with from Spain; and this reparation they had promised us before this Convention was thought of. The 60,000*l.* which we have allowed them for their ships, which we took and destroyed in the year 1718, can be no reparation to us, whatever it may be to them; because they had no pretence for any such demand. The taking and destroying of those ships was what we had a just title to from their infraction of treaties: it was then reckoned such a piece of public service, that sir George Byng was made a peer for it; and if we promised to restore them by the treaty in 1721, we performed that promise, as far as was incumbent upon us: we promised only to restore them in the condition they were in: we did not promise to repair them, or to make them fit for service; and if the Spaniards would not take them, because they would not be at the expence of repairing them, it was their fault. Therefore I must suppose our negociator allowed of this demand for no other reason, but in order to have a pretence to say, they had obtained some sort of reparation; and the 68,000*l.* to be paid by our South Sea Company, I must look on as a condescension of the same nature. The king of Spain had justly no such demand upon the company: if he had, they had much greater demands upon him; the court of Spain itself allows they have a just demand for above four times that sum; therefore the most that court could insist on, was compensation; but the truth is, I believe, they are resolved never to pay the Company a shilling; and our negociators allowed them to insist upon the immediate payment of this 68,000*l.* upon a promise to pay it back to them by way of reparation. Can this be called a reparation made by Spain? Can it be called a reparation made to this nation? If the Company would agree to pay it, which I believe they will not, it might be some reparation to our injured merchants; but a reparation made to them by our own South-Sea Company can never be said to be a reparation made to them by Spain; nor can a reparation made by one part of our own people to another be said to be a reparation made to the nation.

I have now, I hope, clearly shewn, Sir, that by this Convention we have obtained no satisfaction, no security, no reparation; but that on the contrary we have given up all future pretences to every one of them. Therefore I cannot think that any gentleman who considers himself only as a member of this House will agree to our approaching the throne of our sovereign with such an address as has been proposed. Immediate war may not be the consequence of our refusing our approbation; but immediate infamy to the nation will, in my opinion, be the certain consequence of our granting it. I shall allow that war ought to be avoided. It ought to be avoided by all

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means, but scandalous, cowardly means. A nation that has once got the character of being cowardly, or too fearful of engaging in war, must always be in a sort of war. They will always be suffering war, but never making any. This, I am afraid, has been too much our case for 17 or 18 years past: we have had our towns besieged, our ships taken, our merchants plundered, and our seamen barbarously treated, without our declaring war, or committing any hostilities on our side. Long before the treaty of Seville, the Spaniards began their depredations: we then bought peace at a dear rate; at the price of sacrificing the friendship and confidence of one of our best allies. While we were getting provinces for Don Carlos, which has since procured him kingdoms, the Spaniards suspended a little their depredations; but they never granted us any reparation for what was past, nor security against future, though they promised both by that treaty: on the contrary, as soon as their turn was served, they renewed their depredations with more vigour and cruelty than ever. And shall we approve of a treaty, which, instead of preventing them, will give the Spaniards what they never had before, a title to continue them; for this must be the case, if in pursuance of this preliminary we agree by a solemn treaty to any regulations, either with regard to our right to a free navigation, or with regard to the right they pretend to of searching our ships upon the open seas, and seizing them, if found sailing out of their due course, or with any goods on board, which they are pleased to call contraband.

Our agreeing, Sir, to such a treaty must necessarily involve us at last in a war, unless we have a mind to give up our plantations and West India trade: whereas our refusing our approbation to this preliminary will prevent any such solemn treaty's being negociated, and may prevent a war; for if Spain has the least dread of our resentment or power; if this nation is not already brought into the utmost contempt, when Spain sees that they cannot amuse a British parliament, as well as a British ministry, they will agree to do us justice in a peaceable manner. But for God's sake, Sir, what are we afraid of? If Spain is not assisted by France, it is impossible we can have any thing to fear. If France should join against us; though I may not perhaps think, we are an equal match for them both at land, yet, I think, we are more than a match for them both at sea; and there they must gain a superiority, before they can distress, or greatly hurt this nation. But, suppose we were not: the hon. gentleman who made this motion, has himself given a good reason, why we should not submit to an infamous peace. The race is not to the swift, nor the battle to the strong, it is God that gives the victory; and when we have so just a cause, we have great reason to hope for the assistance of God Almighty; which will be sufficient for us, even though, by means of our late negociations and conduct, we may now literally say, we have none else to put our trust in, but him.

The circumstances of Europe, Sir, are indeed at present in a dangerous, a most terrible situation; and the present circumstances of this nation cannot, it is true, be said to be happy; but the hon. gentleman who made this motion is, I think, one of the last that ought to have made use of such an argument for our approving of a dishonourable or destructive treaty. If we have negociated the affairs of Europe into an unlucky situation, it is well known who ought to be blamed; and if the domestic affairs of this nation be now in great disorder, a certain friend of his cannot be entirely innocent. If our affairs are brought to such a fatal crisis, that we must either forfeit our honour, and leave our plantations and trade exposed to continual insults and depredations, or engage in an unequal war, it may be an argument for suspending our resentment, if possible, till a more favourable opportunity offers; but it can be no argument for our agreeing to a dishonourable and pernicious treaty; especially when by such a treaty we are to get nothing, not so much as a suspension of hostilities, and are to give a general release of all former demands, a general oblivion of all past injuries; for since we are to get nothing, I think we ought not to have passed from any thing by this preliminary: our demands, as well as our rights, might have been referred to be regulated by our plenipotentiaries; and in that case, we could have insisted or relaxed with regard to the former, according to the compliance we had found Spain ready to make with regard to the latter.

I therefore hope, Sir, that no gentleman will be frightened into an approbation of this Treaty, by the terrors that have been thrown out; but that on the contrary every gentleman will upon this occasion resume the spirit of his ancestors, and reject a treaty which so evidently blasts the

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honour of his country. When this is done, we may with honour examine into the terrors we have been threatened with; and if there be the least ground for them, I hope it will be a prevailing argument for our entering upon a strict enquiry into the conduct of those who have brought their country into such fatal circumstances; for if we be in such a woful condition, as to be unable to continue in peace with any degree of honour, or engage in war with any prospect of success, I am sure we can expect no redress from the future conduct of those, who by their past conduct have brought our affairs, both at home and abroad, into such distress and confusion.

Lord *Gage:*

Sir; as incapable as I am of entering into a debate of this nature, I cannot with that duty I think I owe my country, and those I have the honour to represent, sit still and only give a negative to the question before us: for I look on this Address that is proposed to be made his Majesty, to be no more than a vote of approbation of the measures taken by the administration, and of thanks for the blessing the nation has obtained by this Convention with Spain, of which I once said before, had a messenger with proper instructions been sent over in a fisher-boat, he would have brought us back a better than that we have got.

As to any compliments that are to be paid his Majesty, no one is more ready to join in them than myself; but as by the laws of this land the king can do no wrong; so I look on this Convention as the work of the minister, and as such I shall speak of it; and that it is so is clear, for everybody, let him be never so dim-sighted (that has not had dust thrown into his eyes) must see that this glorious Convention, that has cost the nation not above half a million of money, is more a ministerial expedient to get over this session of parliament, than a thing calculated either for the dignity of the crown, the satisfaction of the merchants, or reparation for the repeated insults on the honour of the nation.

When I first read the Convention, I was surprized to find that our indisputable right to free navigation, and no search at any distance from land, was to be referred to plenipotentiaries at a future congress: the referring an indisputable right, is in a manner weakening the title, not that I apprehend, that any minister at home or abroad will ever dare give up this right of ours.

But why is this to be discussed in a future treaty? Why, after the Resolutions the parliament last year came into, was not this the first Article in the Convention? *Sine qua non*, as to any treaty with Spain, can there be any one weak enough to imagine, that plenipotentiaries sitting at a round table with pen, ink, and paper before them, can procure for this nation what our fleet could not have done last year with cannon, powder and ball? Besides, by having deferred doing ourselves justice, England may have lost a very lucky juncture; France and Spain were not then on so good terms, as I am afraid they are at present. Had the Spaniards been attacked last year in New Spain, we should have found them unprovided, their garrisons without men, and their fortifications out of repair. But this they have taken care to remedy for the future, by the great number of troops they have since sent thither, and by working day and night at their fortifications.

But as on the one hand they are grown stronger, so we on the other are grown weaker and poorer: We, Sir, last year threw away a vast sum of money to no purpose, but to be laughed at by all nations, and they by our leave are bringing home, in their galleons, vast sums of money to be employed against us. What have we been doing for these last 20 years but negociating to no purpose? What is there in this treaty, more than in all former ones? Did not Spain by the treaty of Madrid, in the year 1721, which treaty was confirmed by another in the same year, called the Triple Alliance, stipulate that all former treaties should be confirmed, and expressly promised that all goods, merchandizes, money, ships, and other effects which have been seized as well in Spain as the Indies, should be speedily restored in the same kind, or according to the just and true value of them, at the time they were seized? Has there been a tittle of this performed? Have our merchants ever had any satisfaction made them for their ships, their effects and money they were plundered of? Why, no.

But yet every man, who at that time did not believe they should, was looked upon as a jacobite, a man disaffected to his Majesty, or at least to his minister, which was as bad, if not worse. So far were the Spaniards from performing one article of this treaty, that they used us worse than ever, and so continued doing till the merchants came with fresh complaints, which

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they laid again before the House of Commons, where I cannot say, they were very civilly used by some; however, they made out very clear the allegations of the petition, and proved their losses beyond contradiction. Upon this, vigorous resolutions were again entered into by the House of Commons to obtain justice and satisfaction for the merchants; and in order to obtain it, our then and present ministers finding that they had not succeeded in any one treaty they had yet made, entered into another called the treaty of Seville, signed in the year 1729.—By the first article of this treaty all former treaties of peace, friendship and commerce, are again renewed and confirmed; and Spain expressly promised not to do any thing, nor suffer any thing to be done, that might be contrary thereto directly or indirectly.—In the 4th article of this treaty it is particularly agreed, that the commerce of the English nation in America should be exercised as heretofore: and that orders should be dispatched without any delay to the Indies for that purpose. By the 6th article of it, commissaries were to be named who were to settle the limits and pretensions of the merchants; and Spain promised to execute punctually and exactly, within six months, what should be decided by the said commissaries, who were to make their report in three years, but there being nothing done in the first three years, the term was renewed for three years more, in order to do nothing, which succeeded accordingly.

And I remember very well, that an hon. gentleman on the floor, opposite to me (Mr. Pulteney), did at the time of the making this treaty often say, that he was sure if the government would give the merchants the money that was to be allowed the commissaries, they would get more by that, than from the treaty, which I think has proved but too true: for those gentlemen for themselves have not received less than 20,000*l.* whereas the merchants have not received 20 pence. But yet at that time this hon. gentleman as well as myself, and all those who thought as we did, were looked upon as a set of disaffected people; as they are now who do not like this Convention, and expect no more good from it than from all the former treaties. And as for my part, I own I expect no good from it, but apprehend much hurt: our right to free navigation, and no search not being inserted in it, but left to commissaries.

I find also, by what I call the preliminary article, the king of Spain's protest, that the South Sea company's assiento contract will be annulled by the company's having refused (a few days ago in a full court) to pay the 68,000*l.* the king of Spain demands of them by that protest delivered to Mr. Keene. What authority Mr. Keene could have to make this bargain for the South Sea Company, and give up a property they are entitled to, by virtue of treaties and acts of parliament, I cannot apprehend. And though their loss may be no national point, yet so great a body of Englishmen, whose property is concerned, deserves at least the protection of parliament.

The next thing that I have good reason to believe will be given up, or at least taken from us, is Georgia, though hitherto supported by great sums of money given by parliament, and granted by a royal charter to the present trustees: for you will find by the second article of this Convention, that the poor people, who, under the protection of this government, have transported themselves thither, are to be left naked and defenceless, exposed to the mercy of the Spaniards, whenever they please to attack them, by being restrained from the means of self preservation. For by that article it is agreed, that neither the Spaniards nor they should raise any fortifications.

Now, Sir, I can see but one reason, why this was stipulated in the manner I have mentioned, for it regards only us (we demanding no part of the king of Spain's territories) and that is this: our ministers finding that Spain did not much like our settlement at Georgia, and they not daring by a solemn treaty to yield it up, they might whisper the Spanish ministers, and tell them, we are sorry we do not dare give it you up, but we will agree it shall be left defenceless, and then you may easily take it, and we not called to an account for it: this is not at all improbable, when we consider how industrious our ministers have been to find out expedients to be well with Spain, for the good of their country.

Now I have been shewing you what I apprehend we shall lose; let us see a little what it is we have a prospect of getting: that of no search, free navigation, and satisfaction to our merchants, I am sure it will not be for the reasons I have mentioned before, as well as from what fell from the hon. gentleman that spoke last;

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for it is not to be supposed, but what as far as fair means would go every method has been already tried: and he just now as good as told us, we could proceed by no other: for that we had neither money to go to war with, nor friend, nor ally in the world to support us; and he must know, who has been our grand negociator for these last 20 years; a pretty account, I must own, he has given us of the success of his negociations, as well as prudent declaration from one in his post.

But by this treaty he tells us, there is to be ample satisfaction given to our merchants; how far they are satisfied with the Convention the House may judge, from what they have heard them declare at the bar. He says, they are to receive 155,000*l.* which will be in full satisfaction for their losses, though by the bye, their demands on Spain were for 340,000*l.* but our commissary, by a stroke of his pen, reduced them to 200,000*l.* being as he thought full enough for our merchants, and then to induce Spain to prompt payment 45,000*l.* more was struck off, which brings it to the sum the hon. gentleman has mentioned Spain is certainly to pay us: and upon this point, I find, he chiefly seems to extol the goodness of the Convention, and the ability of the ministers in bringing Spain to this condescension: for that Spain paying the money was owning her fault, and declaring the illegality of her proceedings: in answer to this, in the first place, I do not believe Spain will ever pay us a farthing of the money; and in the next place, suppose the money mentioned should be paid the merchants, let us see how much Spain is to pay us of it.

Why in the first place towards making up the 155,000*l.* for the satisfaction of the merchants, Spain insists on England allowing her 60,000*l.* as the remaining part of a debt due to her for having destroyed her fleet in the year 1718. Very gracious indeed, that they did not carry her demands as far back as queen Elizabeth's reign, for the fleet then destroyed! But as strange as this demand of Spain may seem from her, it is much more so in those who have agreed to it, for it has been already once satisfied, as appears by those papers on your table, which are copies of the instructions sent to our ministers in Spain at the treaty of Seville, wherein is mentioned as follows: "In case Spain shall make any further demands of you for the loss of their fleet, destroyed by sir George Byng (afterwards lord Torrington,) you are to tell the Spanish ministers, that Spain has been already amply satisfied, and you are not to enter into any farther discussion with them on that head."

Another time Spain paid themselves this demand by seizing the South Sea Company's effects, Spain at that time declaring, that they were seized and kept on that account: but what does it signify, if for the sake of obtaining this most advantageous Convention we should pay it her at this time. And then it reduces what Spain is to pay us, to 95,000*l.*

In the next place, towards paying the 95,000*l.* the king of Spain insists by his protest as I mentioned before, That the South Sea Company shall immediately pay him 68,000*l.* being a debt due to him from the Company, on one head of accounts, though at the same time, on other heads of accounts, his majesty is indebted to the company a million over and above, as appears on your table, for which they are to stay his time. Now these two sums make 128,000*l.* that I think England is to pay our merchants instead of Spain (if ever paid) so there remains but 27,000*l.* for Spain to pay; of which 27,000*l.* she has taken care to be excused from paying one farthing, as appears by the stipulations by way of drawback, inserted in the 4th Article of the Convention, and the 2d separate Article. For, by those articles Spain is to deduct out of the money she is to pay whatever she may have already given in satisfaction for any of our ships that have been taken: and England is also to allow Spain the value of the St. Theresa, a ship of theirs that had been seized in the port of Dublin 1735. All this is to be settled by our plenipotentiaries, and I think we shall come off well, if on the balance of accounts instead of receiving the 27,000*l.* we shall not be obliged to pay an overplus to Spain. Here ends, Sir, a short narrative of the ample satisfaction England is to receive from Spain for the 340,000*l.* due to her merchants. A most glorious Convention I must own, and such a masterpiece in politics, that I dare say none of the machiavilians of the age, but our own at the head of affairs, could have thought of!

But yet, after all this, we shall be told, I dare say, that this thorough dislike to the Convention, and flame the nation is in, is raised only by a parcel of merchants and discontented people, who only want to turn out the ministers.

No, Sir, that is not the case, for it is not

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the ministers but their measures that have kindled this flame: facts will always speak for themselves, and merchants will always know their own interest. But when the continued depredations on our merchants, the repeated insults on the honour of the nation, the cruelties and barbarities exercised on our sailors, our countrymen thrown into dungeons, and chained like slaves; I say when this is considered, and no more prospect of redress from this Convention than a piece of waste paper, no wonder that the heart of every Englishman should be inflamed.

I beg pardon, Sir, for having taken up so much of your time, but shall be against this Address to his Majesty, because I look on this Convention as disadvantageous to the merchants, dishonourable to the king, and ignominious to the nation.

Mr. *John Howe:*

Sir; I imagine what gentlemen proposed to themselves by examining the Convention was to observe, indeed, and point out any mistakes that might be in it; but with this intention only, that they might thereby assist and enable (as is our duty) those who have the conduct of affairs, to bring them to the happy issue of establishing, by peaceable means, all our several rights, and more particularly that of a free navigation, subject to no search; determined at the same time, if amicable means fail, to defend our rights by the strongest methods. But it seems I am mistaken, for the intent of some gentlemen proves to be, to lay aside all endeavours for peace, and to enter immediately upon war; but I must be excused from joining with them in that, and shall continue my view of preserving and securing, by amicable means, all our rights, agreeable to the advice we ourselves gave his Majesty. I do not think, Sir, the consideration of the Convention itself to be of so extensive a nature as it may at first appear; I will therefore confine myself very closely to it, that I may not trespass too long upon the indulgence of the House: and as it is a point entirely national, I will exclude all considerations but what are national; neither friendship, nor, what is yet more powerful, its contrary, nor any of the narrow views of party, shall find the least admittance. The opinion I shall deliver you will be that of a plain country gentleman, who lives upon his rents, and being satisfied his rents depend on the trade of the nation, will be careful no way to injure that trade upon which his own revenue depends: and as that is to be the case of all landed men, we ought to be very cautious in our proceedings to avoid every thing that may any way obstruct that good success in this negociation, which it is so particularly our duty to further and advance, and to which any rash or unadvised step may prove very detrimental; for all foreign courts give great attention to our parliamentary proceedings, especially those who are at variance with us, and perhaps much more to the proceedings of the lesser, than of the greater number. But upon this head, and that of treaties in general, I shall only repeat the words of sir William Temple, a person well versed in negociations, who writing of a circumstance of time much resembling ours says, "It will be always labour in vain, to make treaties and carry on negociations abroad, unless there is at home an union to support them."

I last year gave my consent to this measure for peace, to which the House advised his Majesty: but if I had not, yet as it is by the advice of parliament, and by the crown's pursuing that advice, become the measure of my country, I should now have thought it indispensably my duty to contribute to my country's success in it. Such was the maxim of that people, who shewed the most public spirit, and who kept their liberty the longest. They, after the warmest disputes in the senate, always concluded, unanimously, with that candid and generous expression, 'Quod bene vertat reipublicæ:' and as all nations agree in that maxim, I hope we shall now put it in execution.

I proceed, Sir, to the Convention itself, but will take it up no higher than the last session of parliament, which gave birth to it, and will avoid bewildering myself, either in the labyrinth of treaties, or accounts.

In the last session, the moving relations which the merchants gave you of their losses, the compassionate sense you expressed of them, and the just indignation that arose in every man's breast, induced this House to address his Majesty, That he would endeavour, by amicable means, to procure reparations of their losses, and security for their future trade; and that, if those measures should fail, we would support him in such as he should then find necessary. Here, Sir, give me leave to observe, that we assured him of our support in the former measure, as well as in the latter, and not only so, but in the for-

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mer preferably to the latter; which assurance I hope we shall make good. In consequence of this our advice, negociations were entered into, and a Convention or Agreement signed, by which a certain sum was stipulated for reparation of our losses, and a certain time limited (a circumstance not to be over-looked) in which all other matters in dispute are to be discussed, and settled according to the treaties now in being, and all power of treating to determine at that time: this I think to be the state of the Convention, and do think the Convention to be agreeable to our advice: what is positive in it, is unquestionably right; what is undetermined and left to be discussed by the plenipotentiaries, no one can speak of with certainty. All therefore that I shall say on that subject is, that I most heartily wish the event may be the procuring us security for all our rights, and particularly for that of uninterrupted navigation, free from all search: but as the event is in the breast of time, which no one can fathom, and as I ought to hope the best, I can by no means give myself leave to think of making so rash, so desperate a step, as at once to break through all measures for peace taken by our own advice: nor can any thing be more unwarrantable than to refuse to let those measures, so advised by ourselves, be tried to the end of the no long time, to which they are confined, and instead of that to plunge immediately into a war, which is the tendency of all the arguments on the other side of the question. And now, Sir, that I have mentioned war, I cannot but beg gentlemen to reflect, that if our rights can be preserved without war (and no one can take on himself to say that is impossible) what a load of blood will he draw on his own head, who shall engage his country in an unnecessary war! Now, the Convention standing thus, it agrees perfectly with the advice we gave the crown, and does fully warrant the Address we are moved to make; and in which I could not but imagine we should all have united; since by it our right of free navigation, without search, which some were jealous was to be given up, is so fully asserted and secured.

The first and greatest objection made to the Convention is, That the ministers have not begun with the proper article, nor in a proper manner. I think, Sir, that method must be undoubtedly the best, which leads most readily and safely to the desired end; and to me it does plainly appear that the method, which some gentlemen think ought to have been taken, would have entirely disappointed and defeated it. They are pleased to say, that the negociations ought to have begun with the point of search, and with declaring to Spain, that if she would not, at once, instantly give up that point to us, though it is the principal one in dispute between us, we would not treat at all with them. Surely, Sir, such an abrupt and arbitrary proceeding could have had no other effect but that of putting an end at once to all thoughts of peaceable measures; such a method as that, no one, even in private life, would have submitted to; nor could any thing but confusion have attended it. But now what disadvantage can come to us by permitting our right to be debated? which is the objection. Why, it is said, that by suffering it to be debated, it is weakened, and brought in doubt. Surely no, Sir; but on the contrary, it is thereby strengthened and freed from all doubt: a good title always receives advantage from examination; none but a bad one flies the light; and had we refused to let ours be examined, would not that have shewn a doubt of it, even in ourselves? but further; do not the Spaniards, by subjecting likewise their pretensions, equally weaken them? they certainly do: what advantage do they then get by it? none at all. But we get a manifest advantage by it; for whoever considers the clause in the Address proposed relating to freedom from search must agree, that our plenipotentiaries cannot now give that up: we have then this advantage by permitting our title to be examined, that our right cannot suffer any diminution, but may receive a confirmation by it. Thus, Sir, it appears plainly, that the method some gentlemen think ought to have been taken would have been successless; and undeniably plain it is likewise, that the method pursued has been attended not only with the success of procuring restitution for our losses, but at the same time, and through that, with the further advantage of drawing from the Spaniard at least an implied admission of our right; and they who deny that, and treat it with the utmost slight, cannot however dispute but that it furnishes us with a new argument, and does open and make plain the way to a more formal recognition; it therefore appears to me to have been evidently the more preferable method.

The next objection, which has any shew

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of weight in it is, that a great sum of money in fitting out a fleet, and a great deal of time have been wasted, and had no effect. As to the effect of the fleet, I desire the gentlemen to consider, how little Spain is (according to their own accounts) disposed to do us the least justice, and then I leave it to them to determine, what influence our fleet must have had. And as to the time supposed to have been wasted, I must observe, that less time will serve indeed to do a wrong than to do a right thing: the ministers had time enough to plunge us into an unnecessary war; but as to what time is required to adjust and settle the numerous and jarring interests of two great nations, who have possessions in all parts of the world, they who are least masters of such affairs, will be most apt to think it an easy task that requires but little time. But further, as to the time, I must observe, that besides the restitution of our losses, and the at least implied admission of our right to be free from all search, more has been done in the time, than does at first appear; for, in considering the several things, in order to make this Convention, most of the points in dispute must necessarily have received such a degree of discussion, as will prepare them for a more easy determination. I cannot therefore think, that either the time or the money has been so mis-spent. In the light, therefore, that I see the Convention, and the objections made to it, I cannot but think the Address proposed to be a very proper one. It gives me, Sir, infinite pleasure, as I conceive it will the kingdom great satisfaction, by the declaration in it against all search: the people have been blown up into an imagination that their right of navigation, free from all search, was to be given up and sacrificed; and a very great ferment has been raised in the nation by it, which I hope will subside, when they see, by our Address, how little foundation such a report had; and that they will now rest assured, that if we cannot succeed in our well-intentioned endeavours of saving them from that increase of taxes, which a war must unavoidably lay upon them, and that a war shall prove unavoidable, their rights will in case of a war be defended with that resolution which always attends sedateness of counsel, and is never found to accompany rash measures. Indeed, Sir, I think that in the present circumstance of things no other resolution can reasonably be taken by the House but that contained in the Address. I can have no interest to injure my country; and did I not think this Address tended to advance the good of it, my own as well as the public interest would disincline me to it: but as I do most sincerely think it for the good of my country, it must have my approbation.

Mr. *Pitt*:

Sir, I can by no means think that the complicated question now before us is the proper, the direct manner of taking the sense of this Committee. We have here the soft name of an humble Address to the crown proposed, and for no other end but to lead gentlemen into an approbation of the Convention. But, is this that full deliberate examination, which we were, with defiances, called upon to give? is this cursory blended disquisition of matters of such variety and extent all we owe to ourselves and our country? when trade is at stake it is your last retrenchment; you must defend it, or perish; and whatever is to decide, that deserves the most distinct consideration, and the most direct undisguised sense of parliament. But how are we now proceeding? upon an artificial, ministerial question: here is all the confidence, here is the conscious sense of the greatest service that ever was done to this country; to be complicating questions, to be lumping sanction and approbation, like a commissary's accompt, to be covering and taking sanctuary in the royal name, instead of meeting openly, and standing fairly, the direct judgment and sentence of parliament upon the several articles of this Convention.

Sir, you have been moved to vote an humble Address of Thanks to his Majesty for a measure, which (I will appeal to gentlemens' conversation in the world) is odious throughout the kingdom: such thanks are only due to the fatal influence that framed it, as are due for that low, unallied condition abroad, which is now made a plea for this Convention. To what are gentlemen reduced in support of it? first, try a little to defend it upon its own merits; if that is not tenable, throw out general terrors; the house of Bourbon is united, who knows the consequence of a war? Sir, Spain knows the consequence of a war in America; whoever gains, it must prove fatal to her: she knows it, and must therefore avoid it; but she knows England does not dare to make it. And what is a delay, which is all this magnified Convention is sometimes called, to pre-

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duce? can it produce such conjunctures as those you lost, while you were giving kingdoms to Spain, and all to bring her back again to that great branch of the house of Bourbon, which is now thrown out to you with so much terror? If this union be formidable, are we to delay only till it becomes more formidable, by being carried farther into execution, and more strongly cemented? But be it what it will, is this any longer a nation, or what is an English parliament, if with more ships in your harbours than in all the navies of Europe, with above two millions of people in your American colonies, you will bear to hear of the expediency of receiving from Spain an insecure, unsatisfactory, dishonourable Convention? Sir, I call it no more than it has been proved in this debate; it carries fallacy or downright subjection in almost every line: it has been laid open and exposed in so many strong and glaring lights, that I can pretend to add nothing to the conviction and indignation it has raised.

Sir, as to the great national objection, the Searching your Ships, that favourite word, as it was called, is not omitted, indeed, in the preamble to the Convention, but it stands there as the reproach of the whole, as the strongest evidence of the fatal submission that follows: on the part of Spain, an usurpation, an inhuman tyranny claimed and exercised over the American seas; on the part of England, an undoubted right by treaties and from God and nature, declared and asserted in the Resolutions of parliament, are referred to the discussion of plenipotentiaries, upon one and the same equal foot. Sir, I say this undoubted right is to be discussed and to be regulated. And if to regulate be to prescribe rules, (as in all construction it is) this right is, by the express words of this Convention, to be given up and sacrificed; for it must cease to be any thing, from the moment it is submitted to limits.

The court of Spain has plainly told you (as appears by papers upon the table) you shall steer a due course, you shall navigate by a line to and from your plantations in America; if you draw near to her coasts, (though from the circumstances of that navigation you are under an unavoidable necessity of doing it) you shall be seized and confiscated: if then upon these terms only she has consented to refer, what becomes at once of all the security we are flattered with in consequence of this reference? plenipotentiaries are to regulate finally the respective pretensions of the two crowns, with regard to trade and navigation in America; but does a man in Spain reason that these pretensions must be regulated to the satisfaction and honour of England? no, Sir; they conclude, and with reason, from the high spirit of their administration, from the superiority with which they have so long treated you, that this reference must end, as it has begun, to their honour and advantage.

But gentlemen say, the treaties subsisting are to be the measure of this regulation. Sir, as to treaties, I will take part of the words of sir William Temple, quoted by the hon. gentleman near me, 'It is vain to negociate and make treaties,' if there is not dignity and vigour to enforce the observance of them; for under the misconstruction and misinterpretation of these very treaties subsisting, this intolerable grievance has arisen; it has been growing upon you treaty after treaty, through 20 years of negociation, and even under the discussion of commissaries to whom it was referred. You have heard from captain Vaughan at your bar, at what time these injuries and indignities were continued; as a kind of explanatory comment upon the Convention Spain has thought fit to grant you; as another insolent protest, under the validity and force of which she has suffered this Convention to be proceeded on. 'We will treat with you, but we will search and take your ships; we will sign a Convention, but we will keep your subjects prisoners, prisoners in old Spain; the West Indies are remote, Europe shall be witness how we use you.'

Sir, as to the inference of an admission of our right not to be searched, drawn from a reparation made for ships unduly seized and confiscated, I think that argument is very inconclusive. The right claimed by Spain to search our ships is one thing, and the excesses admitted to have been committed, in consequence of this pretended right, is another; but surely, Sir, reasoning from inferences and implication only, is below the dignity of your proceedings, upon a right of this vast importance. What this reparation is, what sort of composition for your losses, forced upon you by Spain in an instance that has come to light, where your own commissaries could not in conscience decide against your claim, has fully appeared upon examination: and as for the payment of the sum stipulated, (all but 27,000*l.* and that too subject to a drawback) it is evidently

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a fallacious, nominal payment only. I will not attempt to enter into the detail of a dark, confused, and scarcely intelligible accompt; I will only beg leave to conclude with one word upon it, in the light of a submission, as well as of an adequate reparation. Spain stipulates to pay to the crown of England 95,000*l.* by a preliminary protest of the king of Spain, the South Sea Company is at once to pay 68,000*l.* of it; if they refuse, Spain, I admit, is still to pay the 95,000*l.*: but how does it stand then? The Assiento contract is to be suspended: you are to purchase this sum at the price of an exclusive trade, pursuant to a national treaty, and of an immense debt of God knows how many hundred thousand pounds due from Spain to the South Sea Company. Here, Sir, is the submission of Spain by the payment of a stipulated sum; a tax laid upon subjects of England, under the severest penalties, with the reciprocal accord of an English minister, as a preliminary that the Convention may be signed; a condition imposed by Spain in the most absolute imperious manner, and received by the ministers of England in the most tame and abject. Can any verbal distinctions, any evasions whatever, possibly explain away this public infamy? To whom would we disguise it? To ourselves and to the nation: I wish we could hide it from the eyes of every court in Europe: they see Spain has talked to you like your master, they see this arbitrary fundamental condition, and it must stand with distinction, with a pre-eminence of shame as a part even of this Convention.

This Convention, Sir, I think from my soul is nothing but a stipulation for national ignominy; an illusory expedient to baffle the resentment of the nation; a truce without a suspension of hostilities on the part of Spain; on the part of England, a suspension, as to Georgia, of the first law of nature, self-preservation and self-defence; a surrender of the rights and trade of England to the mercy of plenipotentiaries, and in this infinitely highest and sacred point, future security, not only inadequate, but directly repugnant to the resolutions of parliament, and the gracious promise from the throne. The complaints of your despairing merchants, the voice of England has condemned it: be the guilt of it upon the head of the adviser: God forbid that this Committee should share the guilt by approving it!

Mr. *Lyttelton*:

Sir; from some words that fell from an hon. member who spoke in this debate, I shall begin by wishing in the most solemn manner, by making it my most ardent prayer, that the mercantile interest may be the only bias of our deliberations to-day; and that neither the interest of a party, nor much less that of any single man, may prevail over this, which is the national concern: for then we shall do our duty in this great affair, and our decision of it will do honour to parliament. But before I enter further into this debate, I beg leave to take notice of some words that dropt from an hon. gentleman, who spoke the first upon this question, and which I heard with the deepest concern.

After he had used many arguments to persuade us to peace, to any peace good or bad, by painting out the dangers of a war, (dangers I by no means allow to be what he represents them) he crowned all those terrors with the name of the Pretender. It would be the cause of the Pretender; the Pretender would come! is the hon. gentleman sensible what this language imports? The people of England complain of the greatest wrongs and indignities; they complain of the interruption, the destruction of their trade; they think this peace has left them in a worse condition than before; and in answer to all these complaints, what are they told? why, that their continuing to suffer all this, is the price they must pay to keep the king and his family on the throne of these realms. If this were true, it ought not to be owned. Will it strengthen the family to have it believed? But it is far from true; the very reverse of it is true: nothing can weaken the family, nothing can shake the establishment, but such measures as these, and such language as this.

Sir, I know who hears me,* and for that reason I speak. The hon. gentleman who first moved you this question, and some gentlemen since, have strongly insisted, and it was the sum of all their arguments, that our right not to be searched is not referred to the discussion of plenipotentiaries; they are only, it seems, to consider how to remedy grievances. What grievances, Sir, do the gentlemen mean? the grievances of England! They admit but of one remedy, a very short and simple one, and which wants no consideration: that our ships shall not be searched upon any pretence. This alone can go to the root of our grievances; all less than this is

* The Prince of Wales was in the Gallery during the Debate.

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trifling, hurtful, fatal to commerce. Do they mean the grievances of Spain? The illicit trade? the remedy for that, too, is already provided; it is already settled by our treaties with Spain, that we are not to trade in their ports and havens in America; but if our ships are found there, they must be confiscated. Is not this sufficient? I defy the hon. gentleman who has so much skill in negociation, to discover another expedient to secure the Spaniards from illicit trade, which will not be destructive to the lawful trade of Great Britain; and, I hope we shall be more solicitous for our own than for theirs. The hon. gentleman said, the settling this would take up some time: it will indeed, Sir, for it will never be settled; it is morally impossible it can ever be settled; and therefore, I think it ought not to have been brought into dispute. Had we proceeded conformably to the intentions of parliament, we should either have acted with vigour, or have obtained a real security, in an express acknowledgment of our right, not to be searched, as a preliminary *sine quâ non* to our treating at all. This we ought to have insisted on in the words of La Quadra's Protest (which is the preliminary *sine quâ non* of that crown) we ought to have insisted on it in those very words, as "the precise and essential means to overcome the so much debated disputes, and that on the validity and force of this express acknowledgment, the signing the Convention may be proceeded on, and in no other manner." Instead of this, what have we done? we have referred it to plenipotentiaries. Is not this weakening our right? Would you, Sir, submit to a reference, whether you may travel unmolested from your house in town to your house in the country? your right is clear and undeniable, why would you have it discussed? But much less would you refer it, if two of your judges belonged to a gang, which has often stopped and robbed you in your way thither before. Things that are of a nature to admit of temperaments in each party may recede from their respective pretensions, and come to a medium to conclude the dispute; such things allow of a discussion, and may be referred; but when no medium can be found, when the case admits of no temperaments, where to recede one tittle, is to give up the question, there to agree to a discussion, is to endanger the whole: at best, it can end in nothing but in both sides adhering to their claim, and leaving all in uncertainty, to go on as before. And can any thing worse befal us? Is not this destruction itself?

Oh but, said the hon. gentleman, we have gained a great point, in bringing Spain to acknowledge, by the present Convention, that grievances have arisen in the searching of ships, and that means to remedy these grievances ought to be found out! Sir, was this ever denied? Did Spain ever deny, that her Guarda Costas had sometimes committed excesses, that is, searched a little too wantonly, gone a little too far, made some irregular seizures, and that this ought to be remedied? All this is expressly confessed in La Quadra's Letter to Mr. Keene, dated the 10th of February last year, before we sent out our fleets, and that orders should be given for reparation, when such excesses are proved. But does this amount, or do the words of the treaty amount to any thing like a departing from their pretension to search? No: they are only a modification of it to a certain degree, which is a defence of the practice itself, and we thought so last year, or why did we judge that Letter so unsatisfactory? But, Sir, pray consider, our right not to be searched is a very short point, wants no discussion, does not depend upon arguments of any difficulty to examine or to comprehend. The king of Spain must have known, for this twelvemonth at least, what he ought to think of it, and whether he will yield it or no. The only imaginable reason of his chicaning so long is, that he suspected a weakness in the counsels of England. What was then only suspicion, is now turned into certainty; and if that will make him more pliant, it is easy to judge.

As we go on with our politics, so will the Spaniards with theirs. Ours have been to procrastinate, to put off a war at any rate, to live upon daily expedients, to endure and to treat: theirs have been to fool us with the name of peace, and to commit all sorts of hostilities on our merchants and trade, to plunder and butcher the former, and to ruin the last. Thus it has been; thus it will continue to be. How we find our account in it I am unable to guess! How Spain finds hers in it, is too plain at first sight! If that court were bent upon undoing this nation, they need only leave us to the conduct we hold. What could they desire better, than for eighteen years more to interrupt our navigation, and destroy our trade, put us to the charge of half a dozen pacific fleets, furnish us with a pretence for a numerous standing army

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to consume us at home, render us the scorn of Europe, and at last, to make us amends, account with us so as to receive or detain much more than they give, and keep the claim subsisting upon which they robbed us so long? But it would be better for England to submit at once, throw up the trade to our colonies, and the colonies themselves, than to leave our merchants exposed to such inhuman cruelties, and suffer ourselves to be mocked with forms of justice and law, while we are the prey and sport of all injustice and violence, or with insignificant treaties, which instead of giving us security serve as a pretext and sanction for all future injuries.

But we are desired to have confidence, to have hopes in the wisdom and success of the measures which his Majesty is advised to pursue. Sir, the people of England fear much more than they hope. And have not they reason? What can a review of the past produce, but dread of the future? Have not these depredations for these 20 years increased year after year? How many fleets have been sent out in that time? What were they to do for us? To persuade the Spaniards. To what did they persuade them? To make conventions and treaties. What have we got by those treaties? New and greater insults and wrongs. This was enough to induce us to suspect even last year, that with all our appearances of vigour, we should do nothing effectual; but those suspicions were borne down by the strong assurances given, that we should not meet here again and find nothing done. What has been done, Sir? What is the fruit of our armament? A temporary expedient, a poor, unsafe procrastination, a shameful barter of our future security, for the name of restitution, which, indeed, we make to ourselves. I will not tire you with repeating what has been so fully made out; but when I compare this nominal, this ridiculous satisfaction, with the serious risk we run of losing our most valuable rights, I dare be bold to say, no other nation under heaven ever staked their honour and interest against such counters as these. And are we to go on still hoping, trusting still in spite of experience? Are our resentments perpetually to be played with in this manner, shifted off from expedient to expedient, and from session to session, adjourned from one treaty to another, and so on to a third? If you do not like this, you shall the next; and when that comes, if you do not like that neither, you may go to war. Is this the language to be held to a parliament?

But gentlemen ask, what have you lost by deferring your war? What have we lost? All that we gave to make it last year. We have lost much too of our reputation, much of the esteem of mankind, much of the affection of our people, which is the worst of all losses. But I beg leave to say, in answer to a great deal of reasoning which I have heard from many gentlemen, and heard with great pain, that the question is not, whether war or peace be more eligible; the question now is about maintaining your rights. If Spain believed us in earnest, if she did not depend upon our timidity, it is scarce conceivable this should cost us a war. But if it did bring on one, it is a war of necessity, and it is a war, in which our neighbours have a common cause with us. What was said of the war against the pirates, it would be 'Bellum omnium gentium.' Would France take arms to overturn a general right, which it is as much her interest to support as ours? Would she fight to establish in the crown of Spain a power destructive to the freedom of commerce, and a supreme dominion in the American seas; or to impose that upon England, which she must refuse for herself? Upon the foot of all treaties this is quite impossible: we must be used as the 'Gens amicissima'; if France, or any other nation, shall retain this right for themselves, they retain it for us too; it is ours by consequence. Will she break all treaties, then, to take it away? This would be acting with a spirit or violence, which does not seem to be in her now, and which, whenever it shews itself, must unite all Europe to oppose its effects. Should not we find one friend among so many allies? Have we negociated all the world into enemies, united them all to our destruction? If, by the conduct of our ministers, things are brought to such an extremity, that we are reduced to the necessity of perishing in the just defence of our rights, or of perishing equally by losing them, the choice is easy to make; let us perish like men, and with swords in our hands. But do not let us have the weakness to expect our safety from those, who have brought a flourishing nation to such a dreadful alternative. What is this wretched reprieve that we have begged for eight months? Will that do us any good, Sir? Will that be worth our acceptance? Do we really flatter ourselves that we now are at peace? Peace is a secure and honour-

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lasted enjoyment of our rights. But peace, at the expence of rights, of essential rights, peace exposed to insults, peace exposed to injuries, is the most abject, is the most deplorable, is the most calamitous circumstance of human affairs. It is the worst effect that could be produced from the most unsuccessful, the most ruinous war. No nation should submit to it, while it can hold up its head: but to such a one have we submitted, without striking a stroke, and in a condition to defend ourselves, not against the Spaniards alone, but, if our strength were wisely exerted, against any enemies, whom in such a quarrel we might have to oppose, notwithstanding all the terrors now thrown out to make us believe, that the nation itself is as weak as our enemies may think the counsels that govern it. Yet, though the weakness is not in us, we must suffer the shame of it, and all the mischiefs attending upon loss of honour to a nation. With what contempt and insolence are we used by Spain, when in the same treaty where she stipulated that we shall not have liberty to fortify Charlestown itself, which is as undoubtedly ours as London or York, that we must not dare to dig a ditch about it till this discussion is past; she has not granted us a short suspension of hostilities, a temporary observance of treaties in not searching our ships? So that, far from having a peace, we have not got so much as a truce. For sure the worthy member over the way did not believe himself when he argued, that to have asked a cessation of injuries would have been allowing their claim. If a man were at law with me for my estate, without any title at all, and the case was referred to arbitrators, should I let him cut down my woods and make what waste he pleased, till the suit was decided, for fear he should interpret the forbidding it, as an admission of his claim? Sure an acquiescence under it would admit it much more.

But, Sir, the worst of all indignities is his Catholic majesty's behaviour with regard to the South Sea Company in La Quadra's Protest. That he should not deign to submit his accounts with them to a reference, to which we have submitted things of such infinite consequence, as the right we have to our dominions, and the security of our trade; that he should value our friendship so little, as not even to grant us this treaty, unless out of an unliquidated account the part he claims be instantly paid, without any regard to the balance, or that upon a refusal of this, he shall deprive the company of their trade; that this should be the only condition of his agreeing to sign this Convention, and that we should take it on these terms is indeed astonishing, even to those who are used to consider the repeated insults of Spain, and the habitual tameness of England.

Sir, I entirely agree to what has been said by some gentlemen, that the non-compliance of the Company to this monstrous demand will not forfeit what is stipulated to be paid to our merchants, nor directly annul the Convention. To be sure, it will not. But the penalty annext to it, is the depriving the Company, during the pleasure of Spain, of the benefits of the Assiento trade, and probably too the loss of their debt, against right and justice, and the sense of all treaties. Will our government admit of this? Will they agree to it as just? If they do, it is evident, this great body of our countrymen are put out of his Majesty's protection, and left at the mercy of Spain; and it is no less evident, that we buy this Convention at the expence of a great national interest, and by a breach of national faith, of the honour and justice of parliament, which has sold and confirmed this trade to the company. To say this is not an Article, what will that avail? It is much stronger than an article, as it is the base of the whole. It is much worse than an article, as the doing it in this way has an air of tricking and evasion, that would shame an attorney. Gentlemen may distinguish and refine as much as they please, but on this dirty foundation this Convention does stand. If every other part of it were as good as it is bad and dishonourable, this alone should oblige us to reject it with scorn. With scorn, Sir, let us reject it, that to all we have suffered before, to all the accumulated insults that were ever heaped on a nation, a worse dishonour may not be added, and that dishonour fall upon the parliament. And therefore I heartily give my negative to this question.

Sir *Robert Walpole:*

Sir; I am sorry to hear a question of this kind treated by one side as this has been. It has been objected to the Convention, that it is not a definitive treaty. No, it is not; but it has been proved that it has laid the foundation for a definitive treaty; and a foundation, Sir, that must prove lasting to this nation, and do

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honour to every person, minister or others, who have been instrumental in carrying this negociation on. For my own part, Sir, the greatest honour I expect in succeeding times is, that it shall be mentioned that I, when a minister, endeavoured by this Convention to extricate my country out of the most disagreeable situation she perhaps ever was in, that of going to war with a nation with whom it is her greatest interest to be at peace; and at a time too, when her doubtful situation with her neighbours leaves her very little room to hope for any assistance but from her own power.

Gentlemen have already heard in what situation we are with regard to the other powers of Europe; they have heard that some of them are not in a condition to give us any assistance; and others, though they are in a condition to assist us, will be very ready to do us all the ill offices that are in their power in case of a war with Spain. In this situation, Sir, we have but a very melancholy prospect of success. If we were indeed free of debt, if the nation were united within itself, and if we had nothing to dread but from Spain, I should be very little apprehensive about the consequences of our declaring war at present. But at the same time, Sir, a war with Spain, after the concessions she has made by this very Convention, would on our parts be unjust, and if it is unjust, it must be impolitic and dishonourable. I can easily perceive by what arts, and by whose means, all the clamour about this Convention has been raised; but I am resolved, Sir, while I have the honour to serve his Majesty in the station I am in, to let no popular clamour get the better of what I think is for my country's good. As a minister, I can have very little to dread from our declaring war with Spain, nay, if I had nothing but my own ease and interest to consult, it would be the safest and most advantageous measure for me that could be pursued; but I shall never be for our sacrificing our real interests for the pursuits of military glory; and though I have as great a regard as any gentleman possibly can have for those who have the honour to serve his Majesty in a military character, yet while I have any thing to say in his Majesty's councils, I shall always be against leaving it in their breasts to decide the question of peace and war. This nation, as has been observed by gentlemen who have spoken against our coming to this Resolution, is a trading nation, and the prosperity of her trade is what ought to be principally in the eye of every gentleman in this House. Therefore, gentlemen, even upon the supposition that this Convention has not so effectually answered the expectations of this House, ought to consider whether our declaring war will be for the benefit of our trade; they ought to consider what prospect of success we can reasonably entertain in case of a war; and whether a successful war with Spain alone may not involve us in a very doubtful, and a very expensive one with other powers. These are considerations, that while gentlemen are debating upon this subject never once seem to enter their thoughts. They lay it down as a maxim, that we ought immediately to enter upon war: they allow nothing for the uncertainty of the event, for the interruption of trade, and for the prodigious expence it must be attended with.

But, Sir, setting all these considerations aside, are we to have no regard to common justice? Are we to have no regard for those treaties, for the observance of which, gentlemen in all debates upon this subject have so warmly contended. These treaties provide absolutely, that the navigation to the Spanish West Indies shall be reserved to the Spaniards alone, except in the case of our South Sea Company's trade. Had this stipulation no manner of meaning? And yet it has no meaning, if what gentlemen now seem to insist upon should be admitted. They insist that our ships ought never to be searched, whenever they are found, and let them be ever so near the Spanish coasts. Pray, Sir, what is the plain English of this; but that the trade to the Spanish West Indies ought to be open to every interloper of ours; for I think no gentleman has pointed out the least difference there can be between throwing that trade entirely open, and our having a liberty, not only of approaching as near as we please to their coasts, but of hovering on them as long as we please, without being either stopt or searched.

This, Sir, is the plain English of what the gentlemen who are for a war with Spain advance; the Convention, on the other hand, stipulates, that the treaties subsisting between the two crowns should be the rule of settling all manner of controversies relating to our trade. If these treaties are to be the rules of our conduct on this occasion, we are in no manner of danger to suffer by the Convention, since it is allowed on all hands, that all we ought in reason to claim is the observance of them.

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Therefore, Sir, I hope gentlemen will think fit to agree to the address.

The question being put, the address was agreed to, Ayes 260, Noes, 232.*

March 9. The report of the said resolution being read, it was moved that the same be recommitted, upon which,

Mr. *Pulteney* rose and said:

Sir; the plausible pretence of addressing the crown shall never induce me to betray the trust placed in me by my country; and when I view this question in its proper light, to me it appears to be a modest demand made by the ministry, that we should, without the least satisfaction given us, strike off the long account due to us from Spain, for the most injurious treatment of the subjects, and the grossest insults on the crown of Great Britain; that we should give up all security for the exercise of that commerce, which is at present the only support of this nation: that we should give up the right of this House to arraign a pusillanimous, weak, destructive measure of the ministry, or rather one man in the ministry: in short, that we should sacrifice all that can be dear and valuable to us, as a free people, in order to support one man in his power.

What has hitherto been offered in favour of this Convention, Sir, confirms me more and more in the opinion, that it is a measure destructive to the nation. Gentlemen may remember, that in the last session I was for asserting the rights of this nation in America, after a stronger and more explicit manner than we then did. For this purpose I offered some resolutions to the House that had not the good fortune to be approved of. The right hon. gentleman, who sits near me, (sir R. Walpole,) amended, or rather new-modelled them into the resolutions which were presented to his Majesty. I foresaw, Sir, I foretold a great part of the arguments which have actually been made use of in favour of the Convention. But this measure, though we know it is the gentleman's, is far from being correspondent even to the gentleman's resolutions, if I may so call

* "March 10. The great contest about the Convention being at least for the present determined, and in a way that may have farther consequences, I cannot forbear troubling you, even at Midgham, with some account of it. I ordered the Address from the House of Lords to be sent you; that proposed to the House of Commons is to the same effect, and you shall have it when it has been presented. They were both designed to quiet the minds of the people; and I own I think they should have that effect, since they obviate the objections made to the Convention. But I mention them now only to inform you upon what we debated. Mr. Horace Walpole opened the debate on Thursday morning at half an hour after eleven, with a full and clear explanation of the Convention; and after having spoke two hours and a quarter, but so well that few people thought him tedious, concluded with the motion for the Address, and was seconded by Mr. Campbell of Pembrokeshire, who did as well as Mr. Walpole left him room to do. Sir Thomas Sanderson began the opposition with a great deal of pompous nonsense. My lord Gage, Mr. Knight, Mr. Bootle, sir John Barnard, sir Charles Wager, Mr. Bohun, Mr. Grenville, Mr. Lyttleton, and many others whose names you would be tired of reading, all spoke. Mr. Pitt spoke very well, but very abusively, and provoked Mr. Henry Fox and sir Henry Liddall both to answer him; and I think that sir Henry, speaking entirely from the honesty of his heart, did honour both to himself and those with whom he voted. Sir Robert Walpole, in answer to sir William Wyndham, ended the debate at half an hour after twelve at night: then we divided, and our numbers were, for 260, against 232. Mr. Pulteney, not having spoke that day, opened the debate on Friday about one upon the report. His speech was merely inflammatory, and in it he took leave of the House. Mr. Sandys did the same, and after many very indifferent performances of other people, sir William Wyndham got up about nine at night, and, after a very eloquent invective, declared the Parliament a faction, and took leave too. Sir Robert Walpole answered him, by exposing the indecency of such a behaviour and of such language, for which people had been sent to the Tower; and concluded the debate about ten. We divided again, and our numbers were 244 and 214; many people being absent, and most of them upon bargain. Old Sloper fell asleep, and was counted with the minority. The prince attended the greatest part of both days, and declared, that since a national point could not be carried, he would drop his own, Agreeably to the resolution of the three gentlemen whom I have named, and in conjunction with them, the whole party have agreed to come no more to Parliament. It is the opinion of the ministry that sir William Wyndham intended to be sent to the Tower; it is also said, they all hope to be taken into custody at the next call, and not to make submission; but how far they will carry this, and what will be the event of it, time must shew. With great injustice to colonel Mordaunt, I forgot to say that he spoke yesterday extremely well. The duke of Argyle got the duke's Campbell from us." Mr. John Selwyn to the hon. Thomas Townshend: Coxe's Walpole: Correspondence, vol. 3, p. 519.

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them. The resolutions assert our undoubted right to a free navigation in America. But this is so far from being secured, or asserted by the Convention, that it is actually given up. For, Sir, if it be undoubted, why is it submitted to a future discussion? To what end are plenipotentiaries named, if not to clear up some points that remain doubtful? The very words of the Convention make the doubt: for we there see, that the rights of navigation and commerce of this nation are to be settled by plenipotentiaries. Sir, they want no settling; we have already found and declared what our just rights are; and shall these gentlemen tell us by this Convention that we are mistaken?

Suppose, Sir, that a neighbouring power was to start a claim, which affected the independency of this crown and kingdom; suppose the parliament had come to a resolution, and presented the same to his Majesty, telling him that the independency of his crown is clear and undoubted, and that we will stand by him to the last shilling of our fortunes, and the last drop of our blood; shall any minister, after such declaration, so far prostitute the dignity of his Majesty and the kingdom, as to refer the independency of the crown to the decision of ——— what shall I call them; two creatures of his own, distinguished by no one qualification, but a blind obedience to his commands? Gentlemen may say this case is not in the least applicable to that of the Convention. I own, Sir, the independency of the crown is not immediately affected by the claims of Spain: but will not the honour and interest of the nation, which supports that independency, be both affected? If we give up our trade, where shall we find resources to support ourselves either against foreign or domestic enemies? If we meanly stoop to the dictates of a haughty insolent court; if we barter away the lives and liberties of Englishmen for a sneaking, temporary, disgraceful expedient: what court in Europe will any longer regard us as an independent people?

But though we had obtained from Spain much better terms than it appears are obtained, we have weakened the rights of this nation by the very manner in which we treated about them. We treated, Sir, as humble abject slaves would with an insolent arbitrary master. We have yielded every point in dispute, and have not got one single concession in our favour. We have been treating about rights to satisfaction for injuries, for insults, for barbarities, that I believe were never before attempted to be palliated by any people who ever heard of law and justice; and what makes it still more disgraceful to us, we have been treating, while the other party is still plundering: even at the time when this mock satisfaction was obtained, the Spaniards were repeating the very injuries and insults for which the hon. gentleman and his friends pretend they have made us reparation. They pretend, Sir, that this was the wisest and the most eligible way of proceeding; but it was acting a part the very reverse of what was acted by the wisest and the bravest people that ever lived. They always refused to treat with an enemy who had gained an advantage over them: but when that enemy was subdued, they readily consented to reasonable terms. We, on the other hand, have given our enemies great advantages from our pusillanimity and compliance; we have treated with all the submission of a conquered people, and given up all the superiority we might have claimed from our strength and situation. Had we followed the maxims of that wise people, we should have told the Spaniards our terms; if they had not accepted them, we ought to have ventured our all, rather than submitted in one article: if we had been conquered, Sir, we could not have been in a worse situation than we are put into by this treaty, and if we had conquered, then was the time to have extended our favour, if we could have done it consistently with the honour of Great Britain. This, Sir, would have been no romantic way of acting; it would have preserved our reputation, which is inseparable from the welfare of a trading people; it would have shewed our enemies that we were determined to preserve our commerce and liberties at the hazard of our lives, and that whenever we come to resolutions on these points, we have the firmness not to depart from them.

A right hon. gentleman, Sir, who sits near me, said yesterday, 'That military gentlemen should have as little as possible to offer in affairs relating to peace or war; that as their passion is for glory, they might be animated to seek it, though purchased with the ruin of their country.' Sir, I congratulate this assembly on the right hon. gentleman's change of sentiments. When I look round this House, I cannot help seeing cause to reflect, that this was not always his way of thinking. Neither will it be difficult to assign the true reason

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of this change of opinion. For my part, I have always opposed military gentlemen having too much to say in parliament on the affairs of peace or war; I wish, Sir, they had less to say or do here on this very occasion: we shall soon see, by the part they shall take in this question, how far this passion for glory, the right hon. gentleman talks of, prevails among them. This night, Sir, they will have an opportunity of shewing their zeal for the interest of their country, and at the same time gratify their ardor for action. But, Sir, in all deliberations of this kind, I have constantly observed these military gentlemen very prudently consult the peace of their country, as well as their own glory, by being the first to approve of the minister's most destructive schemes, and even his pacific measures. We all know, Sir, when it has happened otherwise, what was the consequence. They who had the courage, Sir, to follow the dictates of their own breast (I do not mean to reflect on any gentleman of the army) were disabled from further serving their country in a military capacity. One exception, Sir, I know there is, and I need not tell gentlemen that I have in my eye one military person, great in his character, great in his capacity, great by the important offices he has discharged, who wants nothing to make him still greater, but to be stripped of all the posts, of all the places he now enjoys. But that, Sir, they dare not do.* I repeat it, Sir, they dare not. A war, as the right hon. gentleman rightly observed, is to be avoided if we can do it with honour, a vigorous war is the only means of obtaining a lasting peace. It is in vain therefore for gentlemen to declaim on the calamities of war: let them rather expatiate on the miseries of such a peace as we have had these 18 months past. Let them compare these with the most dismal effects of war; the last will be found a safe, an easy, and a glorious expedient. An hon. gentleman said, we have no allies. But whose fault is it, Sir? Has not he himself been making alliances for us all this reign, and part of the last? And does he now tell us, that we have not one ally in the world? It is at least honest in the gentleman to let us know so much. But since this is our case, let us make the best of a bad bargain; let us make use of those advantages that nature has put into our hands: let us exert the courage that our wrongs have inspired us with: in short, let us tread in the steps of former ages. Under queen Elizabeth, Sir, we neither had, nor did we stand in need of allies. Though the nation then lay under many disadvantages, which are now become advantages, she, Sir, by her own power, conquered this haughty enemy, then stronger and haughtier; and shall we despair as men without hope? Let us not bring ourselves into contempt, by approving this pernicious treaty: let us for once change our sneaking conduct, and all will be well. I shall now, Sir, take up no more of your time. There has already been so many arguments unanswerably urged against this destructive measure, that I cannot pretend to say any thing that will add to their weight, except giving my negative a second time to this Address, which I heartily do.

Mr. *Pelham*:

Sir; I am sorry to observe that some gentlemen are never to be convinced or satisfied. Instead of confining what they say to the subject of the debate, they run out in a very indecent manner against those who have the honour to serve his Majesty; as if, for a subject to have the least share of the royal countenance, were a sufficient reason for censure and detraction. The hon. gentleman who spoke last, did not, with all his parts, give one good reason, at least in my opinion, why we should disapprove, and much less censure this Convention. He did not think fit to point out how we might have gotten a better treaty without going to war: and if we should go to war, Sir, I should be glad to know by what mean, we could support that war, if we were at present to enter into it. It is very easy to find fault; but, Sir, it is to no purpose to find fault, unless

* "Mr. Pulteney in speaking against the Convention, made no secret that the duke of Argyle, who was then the idol of all parties, was the declared enemy of the minister; and his grace happening, through curiosity, at that time to be in the House of Commons, Mr. P. decribed him so plainly, that he thought proper to withdraw. "They who had the courage, sir," said Mr. P. "to follow the dictates of their own breasts (I do not mean to reflect on any gentleman) were disabled from farther serving their country in a military capacity. One exception, sir, I know there is, and I need not tell gentlemen that I have in my eye one military person, great in his character, great in his capacity, great in the important offices he has discharged, who wants nothing to make him still greater but to be stripped of all the posts, of all the places he now enjoys. But that, sir, they dare not do." Tindal.

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at the same time they point out how we could have done better. War is called for without doors, it is called for within doors; but gentlemen do not consider how little you can gain by war. They talk as if we were to get the Indies: pray, Sir, if it was so easy, as they now affirm it is, to distress Spain in the Indies, why did we not do it during the last great war, when we had the Dutch fleet to assist us? What success, Sir, had you in your descents upon their territories? If we had not, by great good fortune, got intelligence of their galleons being arrived in port, and if they had not by that means fallen into our hands, I do not think that all we did against the Spaniards by sea last war, (if we except an action my hon. friend behind me [sir Charles Wager] was engaged in) worth mentioning. And even in these two successful rencounters the officers and sailors were gainers, but the public was not. And therefore, Sir, we may conclude, that gentlemen call out for a war, because they do not know any other method for finding fault with this Convention; by insisting upon this, they in effect own that it was impossible for us in the way of negociation to have obtained better terms. For I believe that even the hon. gentleman who spoke last will not pretend to say, that if the ministry could have got better terms in the way of negociation, they would not have accepted of them. But, Sir, this opposition to a measure of the ministry is no surprise to me. I heard this Convention blamed in many companies before it appeared in public, and by people who did not know one single syllable of what it contained. Therefore, as I hear no new arguments against it, I look upon what has been said with so much vehemency, as the effect of passion and disappointment, rather than the dictates of reason. I am therefore for agreeing to the Resolution.

Sir *William Wyndham*:

Sir; though the propriety of this Address was yesterday very fully debated, yet there is so much to be said against it, that the subject grows upon one's hands; and though we sat very late, yet as it has been said that several things were said for the resolution, which were not answered, I am sure that much of what might have been urged against it was omitted for want of time. Therefore, I hope gentlemen, before they agree to this plausible, though fatal compliment to the crown, will at least give a hearing to all that may be urged against it; and consider that this is the last opportunity they can have of saving the trade, the honour, and even the independency of this nation. For, Sir, I will venture to say, that if we should agree to the resolution of the committee, these must all of them receive a most irretrievable blow.

My reason for thinking so is, because if we agree to this Resolution we approve of the Convention, and by approving of the Convention we sacrifice every thing that ought to be valuable to a free people, without having any other return but infamy and dishonour. In order to prove this, Sir, I shall consider the Convention even in the most favourable light it can admit of, without wresting the words to a meaning contrary to what they appear to carry.

The first Article imports that the commercial interests of both nations cannot be established unless care is taken both to repair the damages already sustained, and to prevent the like from happening afterwards. This very proposition carries with it a tacit condemnation of those who have been for some time past at the helm of our affairs. The complaints of our merchants and sailors have lasted for these 20 years past; the unjustifiable claims of Spain are of an older date, but they have never thought fit to avow them, until within these 20 years. Now, Sir, since, as the preamble to the Convention takes notice, it is absolutely necessary for the interest of this nation that these grievances should be removed, I should be glad to know why they were not removed sooner. Why have we for these 20 years been negociating, praying, and entreating? And why has Spain been so long suffered to bully, insult, and oppress us? Why has no attention been given to the complaints of our merchants? why has the chicane of that court been so long put up with? why was it so shamefully borne with, even after they had owned themselves to be in the wrong. Is it not notorious, Sir, that the court of Madrid, six, seven, or eight years ago, owned the injustice and illegality of some seizures; that they have sent cedulas to their governors in America ordering restitution; and is it not notorious that these governors have refused to obey these cedulas, and have afterwards been justified by the court of Spain for their disobedience? Can any man be so blind as not to see what this is owing to? That they granted these cedulas, because at the time perhaps they had

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a favourite point depending with our court. That they gave us in appearance some satisfaction, but sent orders to their governors of a quite contrary nature. To what else, Sir, can we suppose the disobedience and impunity of these governors were owing? The cedulas were dispatched to America; perhaps two months were gone before they arrived there; they were then examined; a thousand trifling observations were to be answered; and something fell in the way, that before the governor could make the restitution desired, must be laid before the court of Spain. Thus at least six months were trifled away, during which time that court had gained its point, and they flatly denied either to give us the satisfaction they had before agreed to; or to bring their governors to any manner of punishment. An instance of this, Sir, you have now lying before you in a letter communicated by the Marquis de la Quadra to our minister, where he tells the latter very plainly, that the Spanish governors in America did very well in refusing to give the satisfaction, which by the cedula sent him from Spain he was ordered to give. Thus, Sir, in effect, we have had the most gross affronts put upon us for these 20 years past, without our shewing any other resentment than a repetition of humble memorials to the same purpose. Therefore it is plain, that our ministry at least have been deficient in not bringing our dispute sooner to an issue, and thereby preventing in a great measure the injurious treatment we have received from Spain. This is the more inexcusable, since it appears by the letter I have just mentioned that the claims of Spain were not confined to particular facts, in which there might be some doubtfulness, but struck at the very root of our commerce and free navigation in the American seas. We read there, that our merchants are to observe a certain course in steering from one part of the British territories to another; and that the Spaniards themselves are to be the judges, whether they observe this course or not. This, Sir, is a claim which I apprehend destroys our navigation. For as no treaty, nor any positive stipulation lays down the manner of our navigation in the West Indies; if any particular manner is to be observed, it must be dictated by the Spaniards themselves; and after that they are to be the sole judges whether it is observed or not. Thus, I say, by this claim our navigation in the American seas lies at the mercy of Spain, while we have no other relief than by having recourse to fruitless and unintelligible memorials and representations. I will take the liberty to say further, Sir, that after this point was by command of the king of Spain stated to our government, our minister at that court should not have been permitted to proceed one step farther in his negociations, till that point had been cleared up. If they had insisted upon their being the judges of our navigation; and in consequence of that had, as indeed they did search and plunder our shipping, our ministers ought to have advised his Majesty to declare war immediately; and if war had been declared, Sir, his Majesty would have been supported by his people; the ministry themselves would have become popular; the nation would have been formidable; and no power would have presumed to trifle with us, or to have talked in a language that seems to dictate in what manner we are to act.

A great deal more might be said, Sir, upon this subject to prove how miserably deficient our ministry has been, in not insisting peremptorily upon an answer from the court of Spain as to their claim of searching our ships. Had they done that, the affair must have been brought to a very short issue; whereas the very suffering such a claim to be disputed on their side, was in effect admitting it on ours; since thereby our most valuable rights were rendered doubtful, nay I shall be able, I believe, to prove, that by this Convention they are subjected to the mercy of this insolent enemy.

Having taken this cursory view, Sir, of the preamble to the Convention, I shall beg gentlemen's patience, while I trouble the House with some observations upon the Articles themselves. By the first Article, plenipotentiaries are to meet; for what purpose? Why, to settle every thing that is in dispute between us; or, in other words, we have referred to two Spanish, and two English plenipotentiaries to decide whether we have a right to sail and carry on commerce upon the American seas. I shall not trouble the House with repeating what has been so very well observed by gentlemen who have already spoken in this debate. I shall only beg leave to say, that the gentlemen who are for the Address bring their argument to this inconsistency, that they must either allow the treaties between the two crowns to be dark, doubtful, and deficient; and consequently, that this and the other House have come to very improper Resolutions by declaring

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upon these treaties that our right to a free navigation in these seas is clear and undoubted; or it must be admitted that this Convention is a very arbitrary, unwarrantable measure, and expressly contrary to the obvious meaning of both Houses of Parliament. I say one of those propositions must be admitted; because the parliament having already called for and examined the treaties between us and Spain, they find that all the rights which Spain has pretended to dispute with us, are sufficiently ascertained by those treaties. They have accordingly taken resolutions upon the footing which they afford; therefore, I should be glad to know how it has happened that our ministers appear to be of a different opinion. I believe when we came to the Resolutions already mentioned, there was no gentleman here, who did not imagine, that they were to serve as directions for our ministry to act by; and if the parliament thought the rights of our commerce and navigation sufficiently secured by those treaties, they ought not to have proceeded one step before the Spaniards had owned the same.

But instead of that, how have they behaved? The parliament says, that the treaties sufficiently secure our freedom of navigation: the court of Madrid says, they do not. Our ministers, instead of saying to the Spaniards, "We will not enter upon any discussion of the validity, or the meaning of treaties; for these are points that we are not at freedom to admit being disputed, since they are ascertained by the parliament of Great Britain, but we insist upon these plain positive facts, that you are not to search our ships; and that you are to pay damages for what you have already done in violation of those treaties." I say, Sir, instead of talking as they ought to have done in this language to the court Madrid, they have admitted the meaning of these treaties to be so far disputed, that it would not be at all surprizing if Spain should dispute next, whether we have, or have not a right to sail up the river Thames.

This I can prove from the very words of this Convention, and if any gentleman shall offer the least argument, that can prove the contrary with any man of common sense, I will give my voice for the Resolutions. By the first Article of the Convention we find, that the conferences of the plenipotentiaries are to be regulated according to the treaties of 1667, 1670, 1713, 1715, 1721, 1728, and 1729, including the Assiento Contract, and the Convention of 1716. Now, Sir, though I think it is extremely right that those treaties should be the ground-work of our negociations, I think it very wrong, that after so solemn a declaration has been made by parliament, our right of navigation should be subjected to the will of any plenipotentiary, be he Spanish or English. Yet there is nothing more plain than that they are: for we need but to look into the second separate Article of this Convention, and there we shall see that a doubt is made, whether or not a ship which was taken by the Spaniards sailing from Antigua, no longer ago than the 14th of April last, was a lawful prize. What is the meaning, Sir, of this Article, but that the Spaniards are doubtful whether we have by treaties a right to sail on the American seas at all. For if we have such a right, surely we can no where exercise it so unexceptionably as within sight of our own ports; if they are doubtful whether a ship is, or is not lawful prize when she sails from Antigua, and not a league from shore, may they not just as well dispute whether we have any right to sail from Portsmouth or Plymouth, or any sea-port in England, to London, or Liverpool?

Therefore, Sir, I say, that this second separate Article explains the meaning of the first Article of the Convention; and shews that the meeting of our plenipotentiaries with those of Spain is not in order to obtain relief from our grievances, but to multiply them; and to decide whether we have any right at all to a navigation upon the American seas. At the same time it appears, that our court are far from being ignorant that the dispute between us must take this turn; for the court of Spain could never raise any doubt, whether we have a liberty of sailing from Antigua, unless they had a design to dispute our right of sailing at all on the American seas.

The next thing that I beg leave to observe, while I am speaking to this second Article, is the stipulation with regard to the limits of Florida and Carolina, which are likewise to be decided according to the meaning of treaties, as if they were not already sufficiently ascertained. But the second Article sufficiently proves, that the Spaniards apprehend we shall give them up all the colonies that are in dispute there; for we find that we must not presume to put ourselves in a posture of de-

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fence in case they should be attacked. Now, Sir, I should be glad to know of gentlemen, why they so strenuously last year insisted upon the necessity of putting the colony of Georgia, which appears to have been for some time past a favourite settlement with this nation, in a state of defence? why was the public put to the expence of sending thither a regiment with engineers stores, and every thing necessary for making a vigorous defence, if it is a doubt whether we have, or have not a right to the colony.

I did intend, Sir, to have gone through every other article of this Convention, but upon a review I find I have been in a great measure prevented by the gentlemen who have already spoken against this Address. Yet I cannot help observing the manner, in which the definitive negociation to be built upon this treaty, is to go forward. In the first place, we do not find one word in this Convention that stipulates any satisfaction for the breach of the law of nations, and positive treaties in the most inhuman manner, by the subjects of the crown of Spain; therefore, they are not to suppose, or at least they will not suppose that they have done any thing amiss. For this reason they will not be afraid to do the same again; and thus they have eight months, appointed to the plenipotentiaries for finishing their conferences, to act all their violences and injuries over again. And after those eight months, we do not find a word in the Convention, from which we can imagine, that the plenipotentiaries have a right to give us any satisfaction for what they may do in the mean time. For my part, according to this Convention, I think they have acquired a kind of right to continue their depredations; because it is evident that our ministers have at least left it doubtful, whether they were or were not in the wrong in doing what they have done already. Give me leave, therefore, Sir, to suppose that the Spaniards will continue their depredations during the time of the conferences; what will be the event? we may say to the court of Madrid; 'Here we have a farther charge; 'your guarda costas have done us more 'damage, for which we are to be satisfied.' Is it not natural for them to bid us look into the Convention, and there we shall find no such agreement; they may tell us, that the Convention was intended to regulate what was to come, and that the decision of the plenipotentiaries was to have no retrospect. At last, when abundance of memorials, representations, and remonstrances have past, the whole may be left to a new Convention.

What British subject, therefore, will venture his property to sea, while such a Convention shall subsist? he can have no manner of rule to go by; he sees a ship, that to his thinking is in as fair a way of trade as any ship can be, seized; and after the seizure, even our own ministers, nay, the parliament of Great Britain, are in doubt whether she is not lawfully seized; how then can he venture to sea? nay, even though the capture of his ship should be found illegal, all he can hope for is bare restitution, after losing all the benefit of his trade, and the charge of the ship, besides seamen's wages, repairs, and a thousand other expensive articles, for perhaps upwards of a twelvemonth.

But I am afraid, Sir, that there is somewhat more than bare suppositions to support the case I have put. I am afraid, the Spaniards have already, even since the signing of this Convention, given proofs in what manner they understand it. You have now upon your table a Petition from the owners of a ship, the master of which was at the time of presenting their petition, as they conceived, a prisoner in Old Spain. He has since, indeed, been released; but not till after his ship was confiseated, and after he had suffered a long and tedious imprisonment, even after the Convention was signed. Nay, we were told at the bar of one House, that our minister-plenipotentiary at the court of Madrid presented memorials for his releasement, and no regard was had to them.

This, Sir, is so positive an indication of the manner in which the court of Madrid understands the Convention, that I cannot imagine the least doubt can arise on that head. Have we had any information yet, that orders have been sent by the court of Madrid to their governors in America, for restoring the two South Sea sloops, which they have detained, or for drawing off their guard from our factory at the Havannah? if they had thought that this Convention obliged them to discontinue their hostilities, they should have immediately given these orders, with severe injunctions to all their governors and officers, against suffering any such violences for the future.

No gentleman here, I hope, will take upon him to say, that the sentiments of our merchants, and their petitions ought to have no weight with us upon this occasion. I am of opinion, Sir, that they are

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the best judges how far it is practicable to carry on the West India trade, if the Convention should be approved by parliament; and you see in their petition, that they are under the very same apprehensions that I have expressed. They think this Convention makes the masters of every guarda costa superior in strength to a British ship that shall fall in their way, the masters of the liberty and property of British subjects. In short, the very petitions that now lie upon the table, considering from whom they come, and for what end they are intended, ought to be sufficient to determine us to refuse our assent to the Resolution.

But though I have the most exquisite sense of what our merchants and sailors have suffered from Spain, give me leave to say, Sir, that the restitution due to them is but the second consideration that ought now to engage our attention. We have a more important point to discuss, and that is, the security of our navigation for the future. I am afraid, Sir, that our ministers have but half understood the court of Spain upon this head. They have taken it for granted, that all which that court insists upon, is, the regulation of some particular points, and the discussion of certain facts relating to our American navigation. But, as I said before, this very Convention proves, that they dispute our having any right of navigation at all upon the American seas. This is no new claim of theirs; it is a claim which they have formerly trumped up, founded upon the pretended ridiculous donation of all America to the crown of Spain by the see of Rome. Nay, so fond were they of this imaginary right, that we find by their own authors, that not much above a century and a half ago, their admirals, whom they sent out to America, had it in their instructions to treat all ships which they found sailing to the westward of the Azores islands as pirates. The weakness of that crown hindered them, indeed, from insisting upon this ridiculous right; but when gentlemen consider the genius of that court, and their stiffness in every thing that regards themselves, they will not at all be surprised to find that, when they saw they had to do with a pusillanimous weak ministry, they should renew their claims. I do not, indeed, say, that they have as yet made any express declaration upon that head, because in that event, the French, the Dutch, and every other nation who has any property in the American trade, must have been alarmed equally with us; but I think it is very plain from their conduct, and from their justifying that conduct, that they can mean nothing less than an exclusive privilege to themselves of navigation in the American seas. For I will challenge any gentleman who is for our agreeing to this Address, to point out by what means it is possible for us to sail in these seas, to sail from one of our own colonies to another, even the most contiguous, if the Spaniards can be justified in the captures they have already made of our ships?

It has been proved, Sir, at the bar of this House, that they have seized ships within sight of their own settlements, though the masters of those ships were obliged to approach their coasts by reason of the force of winds and tides: you have heard it proved, that they have taken ships not within sight of any land; and that they have taken them within sight, nay, almost within gun-shot of our own shores. If they can be justified in these captures, I should beg to know what case can happen, in which we can sail on these seas.

But that I may not seem to speak without the best authority, I shall take the liberty to read the extract of a Paper, which now lies upon your table, and is taken from the words of the Declaration made by the Spanish commissaries to ours at the conferences subsequent to the treaty of Seville. In this Declaration it is said, "That whereas the king their master hath an indisputable right, by the gift of Pope Alexander the 6th, &c. to the property and dominions of all the continents, islands, and seas adjacent, either already discovered, or that shall hereafter be discovered between the Artic and Antartic Poles, a hundred leagues westward of the islands des Azores; excepting those places which have since by agreement with his Catholic majesty been possessed by other princes, and whereas the British nation have introduced themselves into the said dominions, without the consent of his said Catholic majesty, particularly into the islands of New Providence, St. Catherine, St. Andrew, Port Royal, &c." and within the limits of Florida, that, therefore, we ought to evacuate all these places. This demand, Sir, is so ridiculous, that if any gentleman had asserted without good proofs, that a people in their right senses could have made it, I dare say he would have found difficulty to have gained belief. For it not only cuts us out of the places mentioned,

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but out of Jamaica, and some other of our most valuable possessions. I have heard an hon. gentleman over the way say, that we never could bring the crown of Spain to acknowledge our right to the island of Jamaica; I believe nor to any possession we have in America; therefore this demand may be extended to all our American possessions.

It is owing, Sir, to our ministry overlooking and treating in a soothing tender manner this insolence of Spain, that we have hitherto obtained nothing from them, but an addition of infamy from repeated injuries; and this Convention may be called the coup de grace to that miserable lingering state, which our navigation and commerce have been long in. Whereas had they crushed the evil in its bud; had they resolved to break off all conferences unless those romantic claims were relinquished, the Spaniards would never have ventured to persist either in their injurious treatment of our merchants, or the absurdity of their own pretensions. But by even continuing to treat while such a claim was upon the carpet, they had reason to think that we were either afraid to disoblige them, or that there was more justice in their demands than they themselves perhaps at first were aware of. This gave them encouragement to persist in them till they have at last succeeded so far as to get a Convention, which opens to them a fair prospect of obtaining whatever their own chimerical wishes could suggest.—I ask pardon for troubling the House thus long; but the importance of the present question, I think, demands that every gentleman should speak even the fulness of his sense: it is the last time, Sir, if we agree to this Resolution, that we perhaps shall have an opportunity of debate upon any thing that concerns the trade or navigation of this kingdom; therefore I hope the Resolution will be recommitted.

Sir *Robert Walpole:*

Sir; the propriety of the resolution we are now debating was so fully considered yesterday, that I did not imagine it would have met with so strenuous an opposition to-day: however, as gentlemen seem determined to make a point of this question, I am not at all afraid of having it once again fully and impartially considered; and I dare say that such gentlemen, who were for the Resolution in the committee, will be thereby more confirmed to approve of it in the House.

I shall not take upon me, Sir, to answer regularly every thing the hon. gentleman was pleased to advance; but I will venture to say, that I am able to answer every thing he has advanced to the purpose. The preamble to the Convention was found fault with; why? Because it recites that differences have arisen between the two crowns on account of the visiting, searching, and taking of vessels, the seizing of effects, and regulating of limits; therefore the ministers of the two crowns are to take care, as far as in them lies, that no farther causes of such complaints shall exist. This preamble has been represented as a kind of owning the right which the Spaniards pretend to in the American seas. For my part, Sir, I cannot see the least foundation for such a suggestion. Did not this House last session recommend to his Majesty to have all these causes of complaint removed? This was the professed intention of all those negociations against which gentlemen have so much exclaimed. And I should be glad to know in what manner the gentlemen themselves would have penned this preamble? Could it have been said in this preamble, that differences have not arisen, and that the Convention was intended to perpetuate those differences? And yet I do not see any other meaning that an objection to this preamble can convey, but that the contrary of what is there advanced is true.

Gentlemen, when they speak of the Spanish depredations, take it for granted that the Spanish court have as good evidence for the illegality of the captures made by their Guarda Costas, and other vessels as this House has. But give me leave to say, Sir, that the case is far otherwise; for though the injuries our merchants have received have been fully proved at the bar of this House, yet it is by no means so easy for a minister residing at a foreign court to make the Spaniards equally sensible of this as we are, who were present when the proofs were given in. Therefore it is highly unreasonable to imagine that we had no more to do, but to draw out a neat account of our losses, and to have given it to the Spanish ministry, and that they would instantly have signed it, and ordered payment. I could with all my heart have wished that this had been the case; but do gentlemen imagine, that if we had been in the wrong, if the complaints against us had been examined at the Court of Spain, and if they had sent over a peremptory demand

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here for payment of the balance, that our ministry would have been justifiable, had they immediately complied with their demand. I am sure the hon. gentleman who spoke last would be one of the first to arraign them, if they should do such a thing. Let gentlemen lay their hands on their hearts, and consider what the ministry here ought to have done: were they to give into the Court of Madrid a Bill of their damages, and demand immediate payment without the least examination? Were they to threaten, that in case that Court should pretend to delay payment, though but for an hour, we would go to war? By no means. Then what ought they to have done? Why, they ought to have laid the grievances of the nation before that Court, in consequence of the advice of Parliament to his Majesty, and endeavoured to obtain satisfaction for the past and security against all future injuries. But this is precisely the thing they have done; and done it, I will venture to say, with unparalleled success. The Spaniards have owned that they have been in the wrong, they have agreed to make satisfaction, and to submit to regulate every thing in dispute according to treaties. But, says, the hon. gentleman, why did not we obtain an express renunciation on the part of Spain of all her ridiculous romantic claims? Why did not our ministry throw up all future negociations with them? Why did we not insist, said another hon. gentleman, upon having the authors of our injuries brought to condign punishment? As to the first of these points, perhaps it may not appear quite so reasonable to the Spaniards, as it does to some gentlemen in this House. I would have gentlemen rightly to distinguish between the points that are contraverted by Spain, and those that are not; between the points that are admitted by us, and those that are not.

Spain, as I shall prove by and by, notwithstanding all that has been said by the hon. gentleman who spoke last, never has pretended to dispute our right of sailing from one of our own settlements to another; but she pretends, that in the course of that navigation we ought not to touch upon her coasts, nor to trade with any of her subjects. We, on the other hand, admit that the Spaniards have a right to prevent any trade from being carried on by the subjects of other nations with hers, except that trade which is expressly stipulated by the Assiento-treaty. But we deny, that under that pretence her subjects ought to stop or search our ships. This, Sir, is a short state of the controversy between us and Spain, and perhaps it is attended with more difficulties than may be imagined.

For in the first place, though their claim of searching our ships may seem highly unreasonable to us, it may appear quite otherwise to them. They have on their side the constant practice of all nations, who have, and exercise a right of stopping and searching all ships which they suspect as carrying on an illicit trade with their subjects. I know it is said, that this right cannot extend to the American seas, because that in them there can be no object of search on board our ships, since all trade between the Spaniards and us in those seas is absolutely prohibited. Sir, I shall not at present dispute the general sense of this proposition, but gentlemen will please to consider the consequences if it is too far extended. Suppose, for instance, that an English ship is seen hovering off of the Spanish coasts; suppose that the Spanish officers shall see boats, loaded with goods passed and repass daily and hourly between their shore and this ship; what! are they to take no manner of notice of such a ship? Are they to wink, to connive at a practice so utterly repugnant to the meaning of all the treaties between them and us? This, Sir, would I think be carrying the general proposition I have just now mentioned too far. The Parliament could never mean, in their Address to his Majesty, that we should assert a claim so inconsistent with treaties. All we meant, I will venture to say, was to assert it so far as treaties could warrant it, and no farther; if we meant any thing else, it was unjust. But gentlemen never reflect that in all their speeches and reasonings against the Convention they plead for this unlimited, this unjustifiable sense of that proposition. They do not reflect, that if we had insisted upon any other terms than what are contained in the Convention, they must have been to bind the hands of the Spaniards absolutely up from preventing any unlawful trade that may be carried on upon their coasts; which I am sure never could be the intention of Parliament, nor can be justified by treaties.

I know, Sir, with what a tender hand the interests of trade ought to be touched, and I know too with what views all the clamour against this Convention have been

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raised; but I am convinced that the interests of trade are never so well consulted, as when it is carried on agreeably to treaties. If, in order to gratify the pique and resentment of any particular set of men among ourselves, we shall encourage measures that destroy the intention of treaties, we shall soon see our trade ruined. Every nation in Europe will become jealous of us, and perhaps may conspire our destruction. It is only by preserving the faith of the nation in carrying on our American commerce, that we shall be able to prevent such a conspiracy; for upon the basis of that commerce, every other branch of our commerce is founded. If the other powers of Europe should once conceive a jealousy that we intended to engross the whole of that commerce to ourselves, do we imagine they would sit cool and unconcerned? No, Sir; in such an event, even your best friends would look upon your conquests with a jealous eye, and your most powerful neighbours would continue neutral no longer than your success should alarm their fears. It is the inactivity and laziness of the Spanish nation, that is her greatest security in her possession of the American treasure: but were these treasures to fall into the hands of a people, who knew how to engross them to themselves; who knew how to keep them from becoming, as soon as they arrive, the property of other nations, we should soon see a change in their pacific dispositions.

It was in order to prevent this from ever becoming the case, that so great care was taken to secure by all treaties, in which the Spaniards have been contracting parties, the possession of the Spanish West-Indies to that Crown; and the Article of the treaty of Utrecht, which stipulates that possession, makes it the foundation, the *Sine qua non* of all the negociations, not only between Spain and us, but among all the powers of Europe. Therefore, gentlemen ought to be extremely tender of urging this point; it is a string, which if not delicately touched may create a discord and jarring in our system of interests with our neighbours, that may disorder the whole. It is easy from the words of treaties to raise objections, and throw in difficulties, that may cause a clamour, but if a minister consults the sense and spirit of those treaties he must be justified by his country.

Having said thus much, I should be glad to know whether it can be thought reasonable that the ministry here should have insisted upon the Spaniards granting us absolutely and immediately all we ask, without suffering the least examination into our pretensions, (which, by the bye, are quite new to the Court of Madrid.) Can gentlemen deny, but that there is at least some difficulty in reconciling those points, which they do not pretend to dispute with us, to those points which we cannot controvert with them? Can they deny, that even though Spain had been disposed to grant us all at once, without disputing, without examining into the authority, upon which we founded our claims, that it would not have been proper to be a little cautious, in what manner such a concession should be couched, so as that it might give no umbrage to our neighbours?

And now, Sir, that I have gone thus far, give me leave to mention one or two difficulties, which are founded on the words of those very treaties, in which the gentlemen who are against this resolution so much triumph. They have insisted, that the American treaty, made in 1670, was the first treaty expressly made that laid us under any prohibition of trading to America. Therefore, say they, as no mention is there made of a search, or of prohibited goods, it never can be construed to extend to either, and we have by that treaty a right to sail as near the Spanish coasts in America as we please, without being subject to a search. But I find, Sir, that this treaty of 1670 confirms by its first Article the treaty of 1667, and by this last-mentioned treaty a visit and search too, if no satisfactory account of the ship's cargo is given to the party visiting, is expressly stipulated. But, say gentlemen, this stipulation is only for the European commerce. I shall not dispute at present, Sir, whether it is or is not, but I do not find any expressions in that treaty which determine the sense to the European commerce alone.

The treaty of 1667 is as express with regard to the prohibition of our sailing to the American coasts as the treaty of 1670 is; and I cannot but observe that the 8th Article of the treaty of 1670, which prohibits the subjects of either state from sailing to the settlements of the other in America, is almost transcribed from the 6th Article of the treaty of Munster in 1648, to which the 8th Article of the treaty of 1667 refers. I will take the liberty to read the words of the several

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Articles, because I believe gentlemen who have spoken upon this subject have not sufficiently considered them.

The words of the 8th Article of the treaty of 1667 run thus: "And for what may concern both the Indies, and any other parts whatsoever, the king of Spain doth grant to the king of Great Britain, and his subjects, all that is granted to the United States of the Low Countries, and their subjects in their treaty of Munster 1648 point for point, in as full and ample manner as if the same were herein particularly inserted, the same rules being to be observed, whereunto the subjects of the said United States are obliged, and mutual offices of friendships to be performed from one side to the other." As this Article cannot be understood without the Articles referred to in the treaty of Munster, I shall beg leave to read that too, from the book I have in my hand: the first Article establishes in the States-General the right of *Uti Possidetis* as to all their possessions in America; and the sixth Article proceeds as follows. "And as to the West Indies, the subjects and inhabitants of the kingdoms, provinces, and lands of the said Lords the King and States respectively shall forbear to navigate and traffic in all the havens, harbours, and places provided with forts, lodgments, or castles, and all other places possessed by one or the other party; (namely) the subjects of the said lord the King shall not sail and traffic in those held by the said Lords the States, nor the subjects of the said Lords the States in those held by the said lord the King."

How agreeable this is to the words of the 8th Article of the treaty of 1670, gentlemen shall judge. The words of that Article are; "The subjects and inhabitants, merchants, captains, mariners, and masters of ships of the kingdoms, provinces, and territories of each king, respectively shall abstain and forbear from trading and navigating in the ports, and in the places where forts, warehouses, or castles are built, and in all other places possessed by one or other party in the West-Indies." The rest of the Article is transcribed from that of the treaty of Munster, *mutatis mutandis*. From this it appears that the prohibition of our not sailing to the Spanish West-Indies existed before the treaty of 1670. Now, Sir, though I am as far from being an advocate for Spain as any gentleman in this House is, yet I submit it to consideration, whether it was reasonable to expect that the Spaniards were to sign a Chartre-blanch, and agree to our demand of giving up all rights to a search, before they had considered whether they had not, by the treaty of 1667, a right to search our ships in America as well as in Europe.

Gentlemen have been very severe upon the authors of this Convention, for proceeding in any negociation at all before the Spaniards had absolutely disclaimed this point. But give me leave, Sir, to say, it is but a new argument, even in this House, that the Spaniards have no right to a search upon any account whatsoever; and if it is new to us, it must be so to them; and therefore it is not at all surprizing that they should insist upon some time to deliberate. I remember when the treaty of Seville was approved of by parliament, the gentlemen who disliked that treaty did not make use of this argument; and in all the course of our debates it was still understood, that Spain had a right to a search in certain cases. There is nothing left in this Convention to the discussion of plenipotentiaries, which was not virtually left by the treaty of Seville, to the discussion of commissaries; yet I did not hear any gentleman say at that time, that the rights of our navigation and commerce were given up and shamefully betrayed. To prove what I have said with regard to what was referred to the commissaries, who were to meet in consequence of the treaty of Seville, I need only to read the 6th Article of that treaty, which runs thus: "Commissaries to be appointed on the part of their Britannic and Catholic majesties, to examine and decide what concerns the ships and effects taken at sea on either side, to the time specified in the preceding article (meaning the year 1728.) And to examine and decide according to the treaties the respective pretensions which relate to the abuses that are supposed to have been committed in commerce, as well in the Indies, as Europe, and all other respective pretensions in America founded on treaties, whether with respect to the limits or otherwise." Now, Sir, is any thing more referred to the plenipotentiaries by this Convention? therefore I should be glad to know why such a clamour is raised now on that head, and if the point of no search be so clear in our favour as gentlemen would have it, was it not as clear then as now?

But it is said, here is the case of a ship sailing from one of our own colonies, and

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not so much as pretended to be within the Spanish limits, submitted to the discussion of our plenipotentiaries; and this will be a great discouragement to our merchants carrying on that commerce, during the intermediate time. If the case were as the honourable gentleman has represented it, I do not know but it might have that effect; but we ought to consider, Sir, that it is not only the place in which a ship is found to carry on commerce, that makes such a ship a prize, but the species of goods that are on board. To be sure, if there were no other objection against that ship, the Success, than that she was sailing out of Antigua, as the hon. gentleman has been pleased to state the matter, it had been a very ridiculous subject for the discussion of the plenipotentiaries, but as there are other circumstances, which according to the claims of Spain may make her a lawful prize, the article with regard to her is both prudent and reasonable, nor can it ever prejudge any of our just rights.

Having thus, I hope, obviated all that has been so advanced against this Convention, I shall now take the liberty to say a word or two in answer to what was said with regard to the claim of the Spaniards, to an exclusive privilege of navigation in the American seas. It was said, that in the conferences with our commissaries the Spaniards had insisted upon such a privilege: to prove this, a passage from one of the papers upon your table was produced; but how does that passage prove it? It proves that a ridiculous romantic claim was entered by the Spanish commissaries, and this Convention proves that they have relinquished it since. But the honourable gentleman did not enough attend to the passage, when he said that it extended to a claim of an exclusive right, for we find it is restricted to those places which have not been by agreement with his Catholic Majesty possest by other nations. Therefore it never can be construed to comprehend any of our possessions which we held before the treaty 1670, because in that treaty we have from Spain an article of *Uti Possidetis*, by which that crown consents to our enjoying all the property of what we were then in possession of. Upon the whole, Sir, I cannot see the least foundation for our refusing to agree with the committee in the Resolution, for a dutiful and grateful Address to the crown.

Mr. *Fazakerly*:

Sir; I rise up to answer for my hon. friend and the other gentlemen, whom I have the honour to be acquainted with, in regard to what has been said by the hon. gentleman who spoke last. As to the reasons offered against this Convention, Sir, they must stand or fall by themselves. All that I shall say at present is, that they are approved of by every man of sense and honesty without doors. But with regard to the motives of opposing the Convention, I take it upon me to declare in behalf of my friends that they are not personal. I dare say, if there had been any one thing in this Convention that could have been approved of, the honourable gentlemen would have given it its due weight. As for myself, I am far from either censuring or envying any gentleman who has the honour of enjoying the royal favour. The right hon. gentleman, who, I believe, has the greatest share in it, is a person, whom I know (from my own experience, Sir, I can say it) to be as well qualified for a first minister as any man in this nation. He has in this debate acquitted himself with as much ability as any gentleman that ever sat in this House, who had so ill a cause to defend, ever did. He has discharged the important posts he has enjoyed with great capacity; and his temper and moderation is beyond dispute the most extraordinary of any man I ever knew. In short, Sir, his character in private life is amiable even in the eyes of those who differ from him in public. It may be my misfortunes, that I differ with him on this, or any other occasion; but, Sir, I do it upon so strong a conviction, that our agreeing to this Address will be the most fatal measure this House ever entered into, that if the right hon. gentleman is determined to carry it by a majority, I shall never again appear in this House till I perceive a change of measures.

Sir *Robert Walpole*.

Sir; I stand up to express my acknowledgments to the hon. gentleman who spoke last, and am ready to do his character that justice which all the world does; that he is a very learned lawyer, and has as thorough an understanding of the laws and constitution of this country as any man in it. But, Sir, it is really surprizing, if I possess any part of those great abilities and qualifications the hon. gentleman has been so kind to ascribe to me, whence it should happen, that for these ten years

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past, in which that learned gentleman and I have sat together in this House, I have had the misfortune to differ with him in every single point that has admitted of the least debate.

Colonel *Mordaunt*:

Sir; I have upon many occasions observed, that by the art of ministers, or by the art of those who would be ministers, a popular cry has been raised, by which the giddy multitude have been led, like children in a leading-string, and induced to favour or join with those who first raised the clamour, though the end they were driving at appeared to be directly contrary to the cry they had raised. In a late reign, a clamour was raised among the people, 'That the Church was in danger.' This cry was first begun by those who were not, but had a strong mind to be ministers; and it was echoed back by the people from all corners of the kingdom. Those who put the people into this general fright got their aim: they got themselves made ministers; and they endeavoured to support themselves in power by the same means by which they had got it: during their administration, the popular cry continued to be, 'The Church was in danger;' and yet many are mistaken, if they were not, during the whole time of their administration, secretly driving at an end, which would have brought the Church into real danger.—Upon the present occasion I observe, that the general cry raised among the people is, 'Our Trade is in danger.' I do not know, Sir, by whom this cry has been raised; but I am sure, it has not been raised by our ministers; and if it has been raised by those who are for involving the nation in war, it must be allowed, that the end they are pursuing is absolutely inconsistent with the cry they have raised; for war will certainly bring our trade into real danger. At present, I cannot think our trade in any real danger; and I have good reason for thinking so; because in a debate of twelve hours, I observed there was but one merchant that spoke against this Treaty; and now I observe, that one of our greatest merchants, one who ought to have as great a concern for trade as any member of this House, is sitting in a place from whence he cannot speak.*

Mr. Alderman *Willimot* having taken his seat in the House, said,

Sir; my reason for not speaking upon this question, was not because I do not think our trade in danger: on the contrary, I think it will be absolutely sacrificed, if we approve of this Convention: but the affair has been so fully, and so well spoke to by other members, the fatal consequences of our agreeing to give a sanction to this preliminary have been set in so clear a light, and so little said in its favour, that I thought there was no necessity for my giving you any trouble upon this occasion.—Now I am called upon, Sir, I must observe, that our trade is at present, I think, in the most imminent danger. A just and a well conducted war can never bring our trade into any danger. But if we shew that we dare not resent any injury done to our trade; if we allow our merchants to be plundered, and our seamen murdered and tortured with impunity, our trade will not only be in danger, but must be undone. To this I must add, Sir, that with regard to the Treaty now under our consideration, the honour of the nation is as much concerned as its trade; and therefore it astonishes me to hear the hon. gentleman that spoke last, or any gentleman of his character, making light of such a subject; for if the gentlemen of our army should make themselves merry with the honour of their country, or should join in sacrificing it, by giving a parliamentary sanction to an infamous treaty of peace, I am sure they would be at least as blameable, as those merchants who should make a joke of, or join in sacrificing its navigation and commerce.

The question being put, the Resolutions were agreed to; upon a division, Ayes 244, Noes 214.*

* The Gallery.

* "In the division on Friday, Sloper was asleep till the House was begun to be told, and they would not let him go out after he was awake, so he voted against his inclinations, otherwise the numbers would have been 245 against 213." Mr. Orlebar to the rev. H. Etough: Coxe's Walpole; Correspondence, vol. 3, p. 519.

* "To enflame the minds of the people yet more, the heads of the opposition printed and dispersed gratis all over the kingdom, Lists of the names of those who voted in the House of Commons for and against the Convention; and to each of the names they affixed the places or posts he enjoyed under the government, with the salary or reputed income annext to it. It must be confessed, that the number of these amongst the friends of the Convention, far exceeded those possessed

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Lambeth Palace Library

The question was then put upon the Address as drawn up. On which

Sir *William Wyndham* rose and said*:

Sir; I have seen, with the utmost concern, this shameful, this fatal measure, approved of by a majority of but 28; and I now rise up to pay my last duty to my country, as a member of this House.

I was in hopes, Sir, that the many unanswerable arguments urged in the debate against the Convention might have prevailed upon gentlemen to have for once listened to the dictates of reason; for once to have distinguished themselves from being a faction against the liberties and properties of their fellow subjects. I was the more in hopes of this, Sir, since in all the companies I have been in from the time this Convention has been spoken of, I have not found one single person without doors pretend to justify it. Is it not strange, that the eloquence of one man should have so great an effect within these walls, and the unanimous voice of a brave, suffering people without should have so little? I am surprized, that I should be so blind as not to discern one argument that has the least appearance of reason among all that has been offered for our agreeing to this Address. This, Sir, must proceed either from the majority of this House being determined by arguments that we have not heard, or from my wanting common sense to comprehend the force of those we have heard. In the first case, Sir, I think I cannot with honour sit in an assembly which is determined by motives

by the gentlemen who voted against it; but it ought to have been considered at the same time, that other passions have sometimes as strong influence, and operate as powerfully, as that for money or preferment. It is, however, incredible what impressions to the disadvantage of the minister those arts made upon the minds of the people. For, at the same time, and in the same papers, were published certain Queries tending to justify the secession from Parliament, and in fact proclaiming to all the nation, that the Parliament itself was become a nuisance, and that, in fact, the constitution was dissolved. The publishing the protests of the peers, and circulating them all over the kingdom, was another artifice employed by the opposition in prejudice of the government. Those protests were generally drawn up with great strength, precision, and elegance of language; and in a few paragraphs they severally contained a dispassionate summary of what was advanced in many angry pamphlets." Tindal.

* "The following report of sir William Wyndham's Speech is from the London Magazine:

"Sir; I do not rise up, after so long a debate, to give you again my sentiments upon the Convention, which we are now, it seems, to approve of; but to express my great concern at what I have seen happen. In all the variety of company I have kept, I have never heard a single person without doors pretend to justify this Convention; and when the sentiments of particulars were such, I did not expect, when they were met together in a body, to see a majority vote for it. This must be owing to one of these two causes: either gentlemen were convinced by the arguments made use of in this House for justifying this Convention, or there are other methods of convincing besides reason. I am not at liberty to suppose it the latter, therefore, I must suppose it the former. But this, Sir, is to me a very melancholy consideration; for though I have attended with the utmost regard to all that has been said upon this Convention, I have not heard a single argument in its favour that has had the least weight with me. This, I say, Sir, is a very melancholy consideration to me, since it makes me conclude, that I have not common sense, because I find I cannot be convinced by the strength of common reason; and therefore I think myself very unfit to do my duty in this House. While I sit here, I am resolved never to be directed by any thing but reason; and, as I must now conclude, that I do not understand reason when I hear it, I must think myself incapable of doing my duty in this House; therefore I am resolved to retire to the country, and there perform my duty as far as I am able, by acting in conformity to the laws, and in obedience to the government.

"However, I must beg gentlemen to consider the consequences of the vote they are now going to give. This Address is intended to convince mankind, that the treaty now under our consideration is a reasonable and an honourable treaty for this nation; but if a majority of 28, in such a full House, should fail of that success; if the people should not implicitly resign their reason to a vote of this House, what will be the consequence? Will not the Parliament lose its authority? Will it not be thought that, even in Parliament, we are governed by a faction? And what the consequences of this may be, I leave to those gentlemen to consider, who are now to give their vote for this Address. For my own part, I will trouble you no more; but, with these my last words, 'I sincerely pray to Almighty God, 'who has so often wonderfully protected these 'kingdoms, that he will graciously continue his 'protection over them, by preserving us from 'that impending danger which threatens the 'nation from without, and likewise from that 'impending danger which threaten our con-'stitution from within.'"

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which I am not at liberty to mention; and if the last is the case, I look upon myself as a very unfit person to act as a senator. I here, Sir, bid a final adieu to this parliament. Perhaps when another parliament shall succeed, I may be again at liberty to serve my country in the same capacity. I therefore appeal, Sir, to a future, free, uninfluenced House of Commons. Let it be the judge of my conduct, and that of my friends, on this occasion. Mean time I shall conclude with doing that duty to my country which I am still at liberty to perform; which is to pray for its preservation:

'May, therefore, that power which has 'so often, and so visibly, interposed in be-'half of the rights and liberties of this na-'tion, continue its care over us at this 'worst and most dangerous juncture; 'whilst the insolence of enemies without, 'and the influence of corruption within, 'threaten the ruin of her constitution.'

Sir *Robert Walpole:*

Sir; the measures which the gentleman who spoke last, and his friends, may pursue, give me no uneasiness. The friends of the nation and the House are obliged to them for pulling off the mask, by making this public declaration. We can be upon our guard, Sir, against open rebellion, but it is difficult to guard against secret treason. The faction I speak of, Sir, never sate in this House, they never joined in any public measure of the government, but with a view to distress it and to serve a Popish interest. The gentleman who is now the mouth of this faction was looked upon as the head of those traitors, who, twenty-five years ago conspired the destruction of their country, and of the royal family, to set a Popish Pretender upon the throne. He was seized by the vigilance of the then government, and pardoned by its clemency; but all the use he has ungratefully made of that clemency has been to qualify himself according to law, that he and his party may, some time or other, have an opportunity to overthrow all law.

I am only afraid, Sir, that they will not be so good as their word, and that they will return to this House; for I remember that, in the case of their favourite bishop, [Atterbury] who was impeached of high treason, the same gentleman and his faction made the same resolution. They then went off like traitors as they were, Sir: but their retreat had not the detestable effect they expected and wished, and therefore they returned. Ever since, Sir, they have persevered in the same treasonable intention of serving that interest by distressing the government. But I hope their behaviour will unite all the true friends of the present happy establishment of the crown in his Majesty's person and family, more firmly than ever; and that the gentlemen who, with good intentions, have been deluded into the like measures, will awaken from their delusion, since the trumpet of rebellion is now in a manner sounded.*

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* "The last effort to prevent the Address on the Convention having proved ineffectual, great part of the minority carried into execution a design which they had previously concerted. It was no less than to absent themselves, or, as it was called, to *secede* from Parliament. Accordingly, sir William Wyndham, to whose advice, at the instigation of Bolingbroke, this measure has been usually attributed, said, 'I have seen, &c.'

"The animated tone of voice, and impassioned gesture which accompanied this effusion, were as dignified and striking, as the expressions were petulant and offensive. The insult offered to the House in calling the majority a faction, raised the indignation of Pelham, and he was in the act of rising to move for commitment to the Tower, when the minister, conscious that such a measure would create a dangerous ferment in the country, prevented him by rising himself, and with an animation and spirit equal to that which had distinguished sir William Wyndham, said, 'Sir, &c.'

"The consequence of this measure was, to the seceders, disappointment and speedy repentance; to the minister, satisfaction and triumph. In fact, they had scarcely declared their resolution, before they saw and appreciated the impropriety and ill policy of the measure. They even flattered themselves with the hopes of being called back to their posts. Several of the minority, among whom were sir John Barnard and lord Cornbury, refused to desert their parliamentary stations; and the applause which they received from their constituents, as well as from all moderate persons, was a tacit reflection on the conduct of the others. In fact, the seceders seemed not unwilling to retrieve their error as soon as they had committed it, by availing themselves of the call of the House, which stood for the ensuing Monday, and to have come down in a body for the purpose of enforcing some violent motion. But the minister, suspecting this design, prevented the execution of it, by obtaining an adjournment of the House till Tuesday. They now experienced the ill policy of their conduct: the nation was not inflamed by their absence. It required no great depth of understanding to comprehend these simple cau-

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Proceedings in the Lords against Paul Whitehead for writing a Satire, intitled, "MANNERS."] February 9. The Lord *Delawar* stood up in the House of Lords, and spoke as follows:

My Lords; it is with an equal mixture of concern and indignation, that I observe the best and the most valuable privileges of the subjects prostituted to the most infamous purposes. The hand of the legislature has been, as yet, tender of reforming this abuse, lest, in endeavouring to restrain licentiousness, liberty might be affected. But, my Lords, the reason of my rising up is, perhaps, one of the most flagrant instances of abuse and virulence that this age has seen. It is true that I believe no man in the nation will say, that the least ground has been afforded by the noble Lords, whose characters are attacked in the infamous libel I have in my hand, for treating them in such a manner as the libeller has done; but, my Lords, if we should suffer such flagrant insults upon our order and dignity to pass uncensured, it will be thought without doors, either that we deserve them, or that we dare not punish them. My Lords, it is necessary to make some examples of our justice

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tions? if it be admitted that the constitution was in danger, why did they quit their station? If the majority of the Commons was a faction, influenced or corrupted by the minister, why did they make that faction stronger by retiring from the House, and leaving the minister in possession of means to extend his corruption with greater facility?

"It was a great cause of satisfaction and triumph to the minister, who declared that no event during his whole administration, had ever relieved him from more embarrassments, or supplied him with greater means of serving the real interests of this country. He observed, that while he was continually baited by opposition, he could not introduce a single Bill, of the most beneficial tendency, which would not meet with resistance, or expose him to obloquy. But as the principal leaders of the minority had retired from Parliament, he had an opportunity to propose several, which tended to promote the commerce and manufactures of the country.

"In conformity with this plan, he encouraged and invited every scheme which seemed calculated for the advantage of the internal and colonial trade. The manufactures of cloth were increased by the Bill, which laid additional duties on the exportation of wool, and facilitated its importation from Ireland. The trade of the British colonies in the West Indies, was highly improved by an act permitting the introduction of sugar into foreign parts in English bottoms, without first landing it in Great Britain, and by rendering more effectual the duties on foreign sugar and molasses." Coxe's Memoirs of sir R. Walpole.

* "Monday, Feb. 12. The Satire called 'Manners,' was voted scandalous, &c. by the Lords, and the Author and Publisher ordered into custody, where Mr. Dodsley, the publisher, was a week; but Mr. Paul Whitehead, the author, absconds: he says a certain Peer is run 'military mad;' it seems he was 'poetically mad,' and prophesied too true, in these lines,

'Safe may Pope dash the Statesman in each line,
'Those dread his Satire, who dare punish mine.'

GENT. MAG.

"In 1739, Whitehead published his more celebrated poem, entitled 'Manners,' a satire not only upon the administration, but upon all the venerable forms of the constitution, under the assumption of an universal depravity of manners. Pope had at this time taken liberties which, in the opinion of some politicians, ought to be repressed. In his second Dialogue of Seventeen Hundred and Thirty Eight, he gave offence to one of the Foxes, among others; which Fox in a reply to Lyttleton, took an opportunity of repaying by reproaching Lyttelton with the friendship of a lampooner, who scattered his ink without fear or decency, and against whom he hoped the resentment of the legislature would quickly be discharged. Pope, however, was formidable, and had many powerful friends. With all his prejudices, he was the first poet of the age and an honour to his country. But Paul Whitehead was less entitled to respect; he was formidable rather by his calumny than his talents, and might be prosecuted with effect.

"Accordingly, in the House of Peers, lord Delawar, after expatiating on the gross falsehoods and injurious imputations contained in the poem, against many noblemen and prelates of high character, moved that the author and publisher should attend at the bar of the House. On the day appointed, Dodsley appeared as the publisher, Whitehead having absconded. Dodsley pleaded that he did not look into the contents of the poem, "But that imagining there might be something in it, as he saw it was a satire by its title-page, that might be laid hold of in law, he insisted that the author should affix his name to it, and that then he printed it." In consequence of this confession, he was taken into the custody of the Usher of the Black Rod, but released after a short confinement and payment of the usual fees.

"No farther steps were taken against the author of Manners: the whole process, indeed, was supposed to be intended rather to intimidate Pope, than to punish Whitehead, and it answered that purpose: Pope became cautious, "willing to wound and yet afraid to strike," and Whitehead for some years remained quiet." Chalmers's English Poets, vol. 16, p. 200.

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sometimes; your lordships have a right to vindicate your own dignity, and, as you see cause, to punish those who offend against any of the members of this House. We have many precedents for this, my Lords, and our exercise of this power has always had a good effect. I have in my hand, my Lords, a paper, entitled, "Manners; a Satire: by Mr. Whitehead: printed for R. Dodsley, at Tully's Head, Pall Mall:" which I conceive to be highly reflecting upon the characters of several noble lords in this House; but as our forms generally direct us to hear what the parties offending have to say for themselves, I shall only at present make a motion, "That the Author and Printer of this Paper be ordered to attend at your lordships bar on Monday next."—Ordered.

February 12. The person whose business it was to summon the said Printer and Author, having informed the House that they both waited at the door, a motion was made, that the Paper should be read by the clerk, which was accordingly done; and the question being then put, That the said Paper is a false, scandalous, and malicious libel, and contained divers matters highly reflecting upon some of the members of that House, the same was unanimously agreed to.

The Author was then ordered to attend; but the doorkeeper informing the House that he was not there, the messenger was called in, and examined by the House, if he had duly executed the order of the House? he answered, that he had been at the Author's house, and that not finding him at home, he left the order for his attendance with his maid, who had promised to deliver it. It was then moved, That the said Author not attending, he should be taken into the custody of the usher of the black rod. Upon which,

The Earl of *Abingdon* spoke as follows: My Lords; there is no lord in this House more averse to encouraging any tendency towards a spirit of licentiousness, especially when it may be thought to affect any of your lordships, or more ready to give his vote for punishing the authors, than myself: but, my Lords, a doubt arises within me just now, from what your lordships' officer told the House. He said, my Lords, that he did not meet with the Author, and that he had left the order with his maid. My Lords, my doubt is, whether we can, consistently with justice, and the forms of the House, proceed to order this man into custody, if the order for his attendance was not personally served upon him.

The Lord *Delawar*. My Lords; it is great matter of surprise to me, that the noble lord should entertain the least doubt upon this head. If once we should admit it to be necessary that every person who is ordered to attend here, should be personally summoned, I believe very few of your lordships' orders would be regarded. It would be easy, my Lords, for one who is conscious that he has done amiss, to keep out of the way, and to elude the diligence of your officer. And what passes in this House is not so secretly transacted, but that an offender may soon know the proper time for absconding. Besides, my Lords, there is nothing more ordinary than to order offenders into the custody of the usher of the black rod, though they have not been personally served with your lordships' order.

Upon this the motion was unanimously agreed to. The Printer was then called to the bar, and upon the several questions being put to him, he informed the House, that the Author, whose name was prefixed to the poem, sent for him to his house, and that he agreed with him to print the said poem; that he did not look into the contents of it, but that imagining there might be something in it, (as he saw it was a Satire by its title-page) that might be laid hold of in law, he insisted that the Author should affix his name to it, and that he then printed it. A motion being then made, That the Printer be taken into the custody of the usher of the black rod,

Lord *Carteret* said: My Lords; I do not think myself at liberty to vindicate either the printer's or the author's innocence in this affair, especially as your lordships have already passed your censure upon the paper that gave rise to this motion. But, my Lords, it may not be always expedient to go to the rigour of justice, especially in a case that may by some be thought to affect the liberty of the press. Therefore I think your lordships ought to temper your severity to this poor man, who is so unfortunate, as I believe, undesignedly to fall under your displeasure. I should be glad to know of any of your lordships, if the author had appeared, whether your lordships would have proceeded to these extremities against the printer. My Lords, I believe the House would have thought it suffi-

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cient, if our censure had been inflicted upon one of the persons concerned; I dare say your lordships would have extended your indulgence a little to this man, who very probably was drawn in by the arts of the author to print this libel. I beg your lordships would consider this. It is hard that this man should suffer for another man's being contumacious; he has, my Lords, shewn all due respect to your lordships' order, and it would sound harsh if your lordships should inflict the same censure upon him that you would have inflicted upon the author, had he appeared. I am far, my Lords, from excusing either of them, but I hope the consideration of what this man's fate would have been, had the author appeared, will induce your lordships to mitigate it now. I shall make no motion, my Lords, but I hope what I have thrown out may have some influence with your lordships.

The Earl of *Abingdon*.—My Lords; I believe there are very few or no instances, wherein your lordships have proceeded with severity against a printer when the author was discovered; and I think it would be hard, if your lordships were to make such a precedent at this time. In inferior courts, my Lords, it very seldom happens that printers suffer when the authors are known; and I hope your lordships will on this occasion, proceed with that lenity which distinguishes this House more than all its other privileges.

Lord *Lovel*.—My Lords, I should be very willing to shew all indulgence to one in this person's circumstances, if I did not think his offence of such a nature as to admit of no mitigation. Libels of this kind are now grown so common, and appear with so much impunity attending the authors, that they require an immediate check from the legislature. The noble lords who spoke last, seemed to think, that as this man was only the tool of the author, therefore we ought to pardon him. My Lords, as we have found the paper in itself to be a libel, the printer in the eye of the law, and in equity too, is as guilty as the author. Were it not for the printers, these infamous papers would die before they were made public; it is the printing and publishing them that does all the mischief. The libel now in my hand is of a peculiar malignancy. It falls upon characters that are above envy itself to asperse, it throws out insinuations that none but the most corrupted heart could suggest; and, my Lords, if we neglected to punish every one whom we shall find to have had an hand in it, we do an indignity to ourselves. My Lords, the public, in cases of this nature, are generally favourable to the offender; but this libel is of so virulent a nature, that, I dare say, there is not a gentleman in the kingdom who does not detest it. If the authors and publishers, therefore, of such scandal, are not punished, the public itself will blame us, and, indeed, I do not see what character or reputation is safe.

The *Lord Chancellor*:

My Lords, the liberty of the press is what I think ought to be sacred to every Englishman, and, I dare answer for it, will ever be so to your lordships. But, my Lords, though the liberty of the press is in every body's mouth, yet I am afraid, there is nothing less understood than the nature of that liberty. My Lords, I have often desired an opportunity of delivering to your lordships my sentiments, with regard to the liberty of the press; and as that expression has been mentioned in this debate, I think I cannot have a fairer opportunity of doing it than the present: but I hope your lordships, beforehand, will acquit me of any affectation to appear singular upon this occasion. I do assure you, my Lords, I shall speak my sentiments, and what occurs to me from the most mature reflection I am able to make upon the nature of our constitution and government.

The liberty of the press, my Lords, is by most people, I know, taken for a liberty to publish every indecency of any kind, against the most respectable persons, and the highest characters; and so strongly does this notion prevail, that a libeller is no sooner prosecuted, than a cry is immediately set up, that the liberty of the press is endangered. But, my Lords, give me leave to say, that if the liberty of the press consists in defamation, it were much better we were without any such liberty. My notion, my Lords, is that the words, 'The Liberty of the Press,' are improperly used, to express a right, which is peculiar to the press, of publishing to the world any defamatory matter to the prejudice of superior, inferior, or equal. My Lords, the laws and constitution of England know of no such liberty; for that would be a liberty destructive of all laws and all constitutions. How these words came to prevail, was my Lords, in my opinion, in this manner: before the art of printing was known in Europe, learning was confined

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to a very few. At that time, the transcribers and copiers of books were a very considerable body of men, and were under particular regulations by law. When printing was discovered, these restrictions fell of course, and then every man was at liberty to communicate, at an easy expence, his labours and thoughts upon any subject to the whole world. This, my Lords, was found so very convenient, that thence arose the words, 'The Liberty of the Press.' That this is the natural original to these words, my Lords, will appear from considering the nature of our laws, with regard to defamatory libels before printing was discovered, compared with what it is now. My Lords, before the discovery of printing, very strong statutes were made against defamation, which very statutes are still in force; and no man, my Lords, will shew me any one statute upon this head, that was in force before the discovery of printing, which has been since repealed. From this, my Lords, I think it is evident, that by the expression, 'The Liberty of the Press,' can never be understood any liberty which the press acquired, and which was unknown before the discovery of printing. This, I hope, your lordships will find a fair and just way of reasoning; and indeed, the only way on which we can reason on this subject If any body, my Lords, is of opinion, that authors acquired any new privileges or liberties when printing was discovered, he ought to prove, my Lords, either that the old statutes on that subject were repealed, or that new ones were made in its favour; which, I will venture to say, no man can do. It is true, my Lords, that in some reigns, very great restraints have been laid upon the press, and very great severities have been inflicted on authors and printers, for publishing that which would now pass current. But this never proves that the laws relating to defamation were bad laws; it only proves that they were abused by power. I am very sensible, my Lords, of how much use the press was at the time of the Revolution; but the authors who wrote at that time on the side of liberty, advanced nothing that was not agreeable to the constitution; they were warranted by law for what they wrote, and they had the sense of the nation on their side. Besides, my Lords, there is a great difference betwixt an author's writing on a speculative subject, on which he thinks he has something to communicate that may be of service to the world, and an author's falling foul on all mankind because they are not of his way of thinking. The authors on the side of the Revolution, my Lords, communicated their sentiments with the greatest deference to the persons and characters of their superiors, unmixed with personal calumnies, or virulent reflections. Therefore, my Lords, it is a groundless cry against the government, when a libeller is punished, to compare the conduct of this government to that before the Revolution, unless those gentlemen can prove, to the satisfaction of a jury, that they write with as much caution, and with as much decency, as the writers who in the reigns of king Charles 2, and king James 2, wrote on the principles of liberty.

Having said thus much, my Lords, I cannot help taking notice of another very common mistake, with regard to the freedom which some gentlemen think themselves entitled to, in censuring the conduct of their superiors. This is a freedom unknown to our constitution, and subversive of our known statutes, because a great part of our laws are intended for the relief of any person who is injured by another. Any person, my Lords, who is injured by another, were this last the greatest subject in the kingdom, has the courts of justice open for his relief, and he has a jury who will do him justice according to the nature of his case, and then the law is satisfied. No man, my Lords, is at liberty, by our laws, to carry his resentment farther, because, if he carries it farther, he carries it beyond law. From this, my Lords, it is plain, that whoever attempts to attack any man's character, by writing or publishing defamatory libels, is guilty of a trespass, and can plead no mitigation of his crime, either from the nature of our constitution, or the tenor of our laws. My Lords, I am sensible this doctrine sounds odd, at a time of day when the people, under the notion of liberty, are quite intoxicated with a spirit of licentiousness. But, I know, I speak in an assembly where nothing is approved or condemned before it is thoroughly weighed; and the longer, my Lords, your lordships weigh what I have advanced, I am convinced your lordships will think it more reasonable. The libel we are now upon is of the more virulent quality, in that it was impossible any of the subjects of the libel could give any just ground of provocation to the author. My Lords, I do not believe any of the noble lords, attacked by this impudent libeller, so much as know him by sight, far less have

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had any manner of opportunity to injure him. This, my Lords, is an aggravation of his offence; such a behaviour can proceed from nothing but a wantonness of malice, and therefore, I think, deserves all the severity of your lordships' censure.

Lord *Talbot*.—My Lords, the liberty of the press is what I hope never to hear distinguished away. I believe every Lord here is sensible that it is in a great measure owing to the liberty of the press that this day we enjoy any liberty at all. I do not speak in defence of the author or printer of this paper, for, if it is such a libel as some lords have represented it, I think no honest man will defend them. But, my Lords, the noble Lord who spoke last, has himself furnished me with what, I think, is a very strong argument, why we ought not to proceed against them in this manner. The noble lord said, that when the meanest subject was aggrieved by the greatest man in the kingdom, the courts of justice are open for his relief from them. My Lords, if it is so, in heaven's name, let those aggrieved by this libel have their recourse to the inferior courts of justice, and do not let such a charge lie against us, that we were judges, juries, and parties in the same affair.

The question being put, it was carried in the affirmative, on a division of 33 against 72.

*Debate in the Commons on the Number of the Land Forces.**] Feb. 14. The Commons having resolved into a Committee of Supply,

Sir *William Yonge* spoke as follows:

Sir; as it is the business of this Committee, not only to provide for the Army, but to determine the Number of Forces that is to be kept up for the service of the ensuing year, I think it my duty to propose to you the number, which I think necessary for that purpose. It is at present, Sir, so evident, that we are in a precarious situation with regard to our affairs abroad, and that there is still, to our misfortune, subsisting amongst us, a restless and disaffected faction at home, that I should not think it necessary to say any thing in favour of the motion I am to make, if great pains had not of late been taken to persuade people, that there is no difference between a numerous standing army kept up within the kingdom in time of peace without consent of parliament, which can never be kept in such a manner, but with a view to destroy our liberties, and a proper number of regular forces kept up, from year to year, by authority of parliament, for no other purpose but to preserve the tranquillity of the nation, protect us against our foreign or domestic enemies, and assist the civil magistrate in the due execution of the laws of the kingdom.

As to the present circumstances of our affairs abroad, Sir, particularly with regard to Spain, it may be properly said, we are as yet in a state of war. The number of land forces we have kept up, and the powerful squadrons we have from time to time fitted out, have, it is true, prevented that nation from coming to an open rupture with us; and have, at last, compelled them to agree to a reasonable Convention for settling all differences between the two nations in an amicable manner; but that Convention can be said to be no more than a preliminary towards a future definitive treaty of peace: the principal differences between the two nations remain, as yet, to be adjusted by a future treaty; and if we keep ourselves in a proper posture of defence, I do not doubt but that they will be adjusted to our satisfaction; but it was never yet heard, that either of the parties engaged in war, began to disband their armies, as soon as preliminary articles for a treaty of peace were agreed on. In such a case, both parties rather increase than diminish their forces, in order to convince the other, that they are ready to continue or to recommence war, if the preliminaries should not in due time be carried into execution, by an equal and solid treaty of peace. Therefore, if we duly consider the present circumstances of our affairs abroad, we must resolve to keep up the same number of land forces we had last year.

Then as to our affairs at home, Sir, can any one say that the number of the disaffected and seditious is less than it was last year? Can any one say that they are more quiet, or less apt to take the first opportunity for raising civil wars and commotions in their native country? Sir, the many virulent, false, and seditious libels, that are daily published against his Majesty and his government, are sufficient testimonies, that the disaffected are neither less numerous, nor more inclined to remain quiet, and submit to that government, which protects them in the free enjoyment of what they possess, than they

* From the London Magazine.

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were last year. It is amazing to think, what an infinite number of infamous libels are daily, weekly, monthly, and occasionally, printed and dispersed through the whole kingdom, highly reflecting upon his Majesty, and upon every man he is pleased to employ in conducting the public affairs of the nation. When we reflect upon it, we cannot but admire the lenity of his Majesty's government, and the patience and good nature of almost every man that has any influence upon his counsels. With regard to printing and publishing, no man can say, that the disaffected and the seditious amongst us, have of late years kept themselves within the bounds of decency; but if it were not for the number of land forces we keep up, we could not expect that they would keep themselves within the bounds of law. They would openly, and in defiance of the civil magistrate, transgress, in the most flagrant manner, the known laws of the kingdom; because it would be impossible for any civil magistrate to put the laws in execution against them: the consequence of which would certainly be anarchy and confusion; and this would as certainly end in a dissolution of our constitution, and an establishment of arbitrary power. Of this we have a recent example but in the last century, which ought to be a warning to us, not to leave our government destitute of those means, which are necessary for supporting it against the disaffected and seditious, as well as against those who are fond of changes, and of new modelling our constitution. Therefore, while there is such a faction amongst us, we ought to keep up such a number of land forces, from year to year, by authority of parliament, as may be sufficient for keeping that faction, if not within the rules of decency, at least within the bounds of law: as that faction cannot be said to be now less numerous, or less turbulent, than they were last year, we must resolve to keep up the same number of land forces for the year ensuing.

To this, I must add, Sir, that as a reduction of our army would increase the hopes of the disaffected and seditious, and consequently make them more apt to raise public disturbances, or to join with any foreign power for that purpose, it would of course derogate from the authority, and diminish the weight of our negociations at foreign courts, and would make such of them, as had any disputes with us, more haughty in their behaviour towards us, and more obstinate in their demands; for we could expect no regard or esteem from our foreign enemies, if our government were in so weak a condition, as not to be able to keep its domestic in awe. They would insist upon high demands, and would make no compliances, because they would expect that our government would grant them any thing, rather than come to an open rupture: and because they would suppose that, if contrary to their expectations, we should come to an open rupture, they would be able to prevent us from doing them any mischief, by giving our government enough to do to defend itself against the disaffected party at home, encouraged by the weakness of our government to rebel, and supported by the supplies, which our foreign enemies might send from time to time to their assistance.

From hence, Sir, we may see the disadvantage we should be under by not keeping up a sufficient body of regular troops, with regard to our enemies, or such foreign states as we may have any disputes with; and with regard to allies, we could not expect to have any; for as all alliances are established upon the mutual advantage or security of the two contracting parties, and can be no longer preserved, than while that advantage or security continues mutual, what advantage or security could any state in Europe expect from this nation, if our government, so far from having any regular troops to send to their assistance, had not a sufficient number to protect itself against domestic enemies? In such a case, it is certain no foreign nation could expect any advantage or security from an alliance with this nation, and consequently would neither stipulate to give us any assistance, nor perform any stipulations they have already made for that purpose; which would be an additional encouragement to those that are now our enemies, or that may hereafter become our enemies, for to insult us in every part of the world.

Thus, I think, Sir, it is plain, that we must necessarily keep up a sufficient number of land forces, at least for this ensuing year; and as our circumstances are now, in every respect, the same they were last year, no less a number can be supposed to be sufficient for the ensuing year, than what was deemed by the parliament last session, necessary for the service of the year now near expired. Though we have made a step, and I hope it will be a successful one, towards establishing a solid and lasting peace; yet it must be ac-

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knowledged that our affairs abroad are as yet in a very uncertain situation; and as to our affairs at home, we find the libels published against the government as numerous and as virulent, and mobs and riots among the people as frequent, as they were about the beginning of last session of parliament, or indeed, as ever they were in this or any other nation, where there was a certain form of government regularly established.

But, Sir, whatever number of land forces you may think sufficient for the ensuing year, as long as they are kept up by authority of parliament, and from year to year only, they must be widely different from a standing army, kept up without any such authority. For as the keeping up of a standing army in time of peace, but for one day, without the consent of parliament, is of itself an invasion upon our constitution; such an army can be kept up for no other purpose but to destroy our constitution, in order to secure those who have, by so doing, made an invasion upon it, against that punishment which is due to them for transgressing the most fundamental laws of their country. Whereas a sufficient number of regular troops, kept up by authority of parliament, and from year to year only, can be kept up for no other end, but to preserve our constitution; because the parliament will never consent to the keeping up of a greater number than is sufficient for that purpose; nor will they consent to the keeping up of any number longer, than it appears absolutely necessary for preserving the constitution, and defending us against our foreign and domestic enemies. For these reasons, Sir, I must think the least number we can propose to keep up for the ensuing year, for guards and garrisons in Great Britain, and for Guernsey and Jersey, must be, including 1815 invalids, and 555 men, (which the six independent companies consist of for the service of the Highlands) 17,704 men, commission and non-commission officers included.

Mr. *Shippen:*

Sir; I must say I am not a little surprized at the motion I have now heard made to you. When the preliminary Convention between this nation and Spain was laid before us, I perused it with great attention, in order to see what advantages we had got by it; and when I could find no one advantage we had got, with regard to the disputes between the two nations, I concluded that our ministers had got some private assurances from Spain, that all would be set right in a short time by a definitive treaty of peace, and that they had in the mean time agreed to this preliminary treaty and a suspension of arms, with a view to save ourselves some expence by a reduction of our land forces.

Spain has, it is true, Sir, for many years, been in a state of war against this nation, though we have never once committed any real hostility against them. But after the moving application that was made last year to parliament, after the strong Resolutions both Houses then came to, and after the expensive preparations we made last summer, I did imagine, that we were at last to begin hostilities in our turn; and when I heard that a treaty was on foot, I concluded that Spain had been so wise as to apply to us for a suspension of hostilities, and for that purpose had proposed to make such concessions, by preliminary articles, as might serve for the basis of a solid and honourable treaty of peace.

In treaty-making, Sir, it is usual to leave such articles as require a long discussion, to be settled afterwards by commissaries; but preliminaries to a treaty, between two contending nations, are never concluded, at least they are seldom formally and solemnly agreed on, except when one of the parties is afraid of suffering by an open rupture, or by a continuance of the war. When this is the case, the party in danger applies for having a suspension of arms upon certain preliminaries, and generally offers to give some pledge, as a security for the performance of such preliminaries as shall be agreed on. Most of us remember, that the treaty of Utrecht was preceded by preliminaries, and a suspension of arms between France and us; but then, as we were in no danger by a continuance of the war, we would agree to neither, till France put Dunkirk into our hands, as a pledge for her performance of the preliminaries. This, I say, was the method of treaty-making at the time of the treaty of Utrecht, and, I believe, for all ages before that time; but what has been our method since that time, I cannot take upon me to say: so far, however, I may say, that whatever has been our method of treaty-making since that time, and God knows we have made enough of them, we have got nothing by it; for, if we have preserved ourselves in a sort of peace, we have made no advan-

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tage of that peace: our taxes are more numerous, and our public debt as great as it was at the end of the war: and, I believe, our trade is not near in such a flourishing condition as it was during the war.

Therefore, Sir, I cannot say that I entirely depended upon our having observed the usual method of treaty-making; but for the sake of my country, I hoped we had; and as I could not suppose that we were in danger of being sufferers by an open rupture with Spain, I concluded, that by the preliminary Convention I heard talked of, they had agreed to make some general concessions with regard to the disputes between us, and to put some pledge into our hands, as a demonstration of their sincerity, which, I am sure, we have had great cause to doubt of, for almost these twenty years past.

But when I saw this Convention, how greatly was I disappointed! Instead of their making concessions to us, we have made, I think, most dangerous, I shall not say dishonourable, concessions to them, and have got nothing in return, no not so much as a suspension of their usual hostilities. Instead of their giving us a pledge, we have given one to them, by agreeing that things shall remain in Florida and Carolina, in the situation they are in at present, without increasing the fortifications there, or taking any new posts. In short, Sir, by this Convention, Spain has not even agreed to suspend hostilities, yet we have agreed not to provide for our defence; from whence it should seem as if we had sued to Spain for a suspension of arms, upon any preliminaries they might think fit to prescribe; and yet I cannot think the nation had any reason to be afraid of an open rupture with Spain, whatever some persons amongst us may have; for, from our agreeing to such preliminaries, I must either think that there are some persons amongst us that are most terribly afraid of it, and are therefore willing to yield to any thing, rather than come to an open rupture with that nation; or I must think, as I have said, that our ministers had some private assurances of the court of Spain being inclined to do us justice, in a short time, by a definitive treaty, and that they accepted of these preliminaries, with a view of saving something to the nation, by a reduction of our land forces for this ensuing year.

Now, Sir, as I always judge charitably, I supposed that this last was the case; and therefore when the hon. gentleman, who made this motion, stood up, I expected an elegant panegyric upon the wisdom of our late measures, and the great care that was taken to embrace every opportunity of saving expence to the nation; for no man is more capable than he; and I expected that he would have concluded with a motion for no more than 12,000 men for the ensuing year, as an earnest of the benefits we are to reap by this new Convention, and as a proof of the assurances the hon. gentleman's friends have of the just and good inclinations his Catholic majesty has towards this nation. This, I say, was what I expected; but how much was I surprized, when I heard him begin to argue for the same number of land forces that were voted last year, at a time when every man, at least every man that was not in the secret, imagined we were upon the brink of a furious war!

If we have no dependence upon this treaty, Sir, why was it made? For it is impossible, since the time it was ratified, we could have had cause to alter our sentiments. If we have a dependence upon it, why not make the proper advantage of it, by lessening the public expence? Every one knows that our land forces have no influence upon the counsels of Spain: It is our naval force they are afraid of: that we have already reduced; and therefore if it be said that Spain must be frightened into a performance, as well as they were into the treaty, we have begun at the wrong end. But I cannot have such an opinion of so wise an administration: from the reduction of our naval force I must conclude, that they are assured of Spain being inclined to do us justice by the definitive, though they have done us none by the preliminary treaty; and therefore the circumstances of our affairs abroad, can be no argument for our keeping up the same number of land forces we had last year; nor can it be said our foreign affairs are in the same situation they were the beginning of last session of parliament. We had then no preliminary treaty, nor any assurances of a satisfactory definitive treaty: now we have both, or otherwise the hon. gentleman's friends have transgressed the rule he himself has laid down; for they have already begun to disband their armies, and those armies, too, which are the only effectual armies against Spain, I mean our squadrons of men of war. Let us then follow their example: the hon. gentleman will, I hope, admit we cannot follow a better: let us begin to reduce our land forces.

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But suppose, Sir, we were still in a precarious situation with regard to affairs abroad, can it be thought that our influence at foreign courts depends upon the number of land forces we keep in continual pay? No, Sir, our influence depends upon the riches and number of our people, and not upon the number of our regular regiments, or the appearance they make at a review. We have many thousands that would make as good an appearance in the day of battle, if their country were in danger, though they are not at present masters of all the punctilios proper only for a review. We have a navy which no nation in the world can equal, far less overcome, by which we may carry the dread of this nation into every country that is visited by the ocean: and we have money, notwithstanding the bad use we have made of a long peace, to hire as many foreign troops as we can have occasion for, and to support them as long as we can have any service for them. Therefore, while we are unanimous amongst ourselves, while our government possesses the hearts and affections of the people in general, which every virtuous and wise government must necessarily do, this nation must always have great influence upon the counsels of every court in Europe, nay, of every court in the world, where it is necessary for us to extend our influence.

From hence we may see, Sir, that in this nation, we can never have occasion for keeping up a great number, or any number of regular troops, in order to give weight to our negociations; and if any power in Europe should refuse to observe or perform the treaties they have made with us, we ought not to seek for redress by negociation: we may make a demand, but it is beneath the dignity of a powerful people to sue for justice. Upon the first refusal or affected delay, we ought to compel them, not by keeping an army at home, which would be ridiculous, but by sending an irresistible fleet, with an army on board, to ravage their coasts; or by getting some of their neighbours, with our assistance, to attack them; both which will always be in the power of every government of this country, that preserves their influence abroad, by preserving the affections of the people at home; and that without keeping any number of regular troops always in pay; for whilst the spirit of liberty, which is the nursing mother of courage, is preserved among our people, we shall never want a great number of brave men of all degrees amongst us, that will be ready to venture their lives in the cause of their country; and such men may, in a few weeks, be sufficiently disciplined for action, though they might not, perhaps, observe all the punctilios so exactly as a parcel of idle mercenary fellows, who have had nothing perhaps to do for seven years together, but dance through their exercises.

The keeping up of a Standing Army in this nation, can never therefore be necessary, either for preserving our influence amongst our neighbours, or for punishing such of them as shall offend us; and with respect to our own defence, as we have no frontier but the ocean, while we preserve a superiority at sea, a popular government in this country can never be under the least necessity of keeping up any land-forces, especially if they would take care to have our militia but tolerably armed and disciplined; for no nation will be mad enough to invade us, while we are united among ourselves, with a handful of troops, who must either all die by the sword, or be made prisoners of war, because we could, by means of our navy, prevent their being able to return. And, if any of our foreign neighbours should prepare to invade us with a great fleet and a numerous army, we would not only have time to prepare for their reception, but we might lock them up in their ports, by means of our navy, or we might give them enough to do at home, by stirring up some of their neighbours upon the continent to invade them.

Thus it appears, Sir, that no government in this island can ever have occasion for keeping up a Standing Army in time of peace, unless it be to subdue the liberties of the people. This, every man in the kingdom, whose judgment is not biassed by his hopes or his fears, must be sensible of; and therefore every government that does keep up a Standing Army in time of peace, whether with or without the consent of parliament, must forfeit the affections of the people. Then, indeed, a Standing Army becomes necessary for the support of that government, not against foreigners, but against their native country; but no army, even the greatest they can keep up, will give them an influence at foreign courts, or an authority among their own people. Abroad they will be despised, at home they may be dreaded, but they will be hated; and, in that case, a small handful of foreign troops, thrown

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into any corner of the island, might be of the most dangerous consequence to the government, because they would be joined by the whole people, and perhaps by a great part of the army.

To pretend, Sir, that there is still a great disaffected party amongst us, is, I am sure, no compliment to his Majesty, or to his illustrious family; and therefore I wonder to hear any gentleman, that has the honour to serve the crown, insist upon it. There are, it is true, many discontented, but few or none disaffected; and the discontents that are so general amongst us, proceed from our having so long kept up a numerous Standing Army, and from some other measures I could mention. Change but your measures, reduce your army, put a confidence in the people, and the discontents will soon vanish, your people will put a confidence in you, and will be a better safe-guard for the government, than any army that can be kept up. Your foreign enemies will then fear you, and your friends will respect you; because the former will be afraid of that vengeance, which they know you are able to pour down upon them, and the latter will depend upon that assistance, which they know you are capable to give. If any of our allies should want land-forces for their assistance, we can hire as many foreign troops for their service as they may stand in need of: if we could not hire such troops, we could soon raise a body of troops within our own dominions, though we had not a regular standing regiment in the kingdom; and we could transport them by our fleet, wherever our allies might stand most in need of them. By our alliances, I know, we sometimes engage to send a body of troops to the assistance of our allies; but I do not remember, we ever engaged, that those troops should be all subjects of Great Britain, or that they should be such as we had kept in pay for several years preceding. Therefore we may perform our engagements to our allies, and may afford them a proper support and assistance, without keeping a Standing Army always in pay.

I shall grant, Sir, that the keeping up of a numerous Standing Army in time of peace, by authority of parliament, is not contrary to law; but I will aver, that it is contrary to, and inconsistent with our constitution. If some future venal parliament should pass a law for enabling the King to impose taxes, and raise money by proclamation, the money so raised would not be contrary to law, but surely it would be contrary to our constitution. To tell us that the parliament will never consent to the keeping up of a greater number of land-forces, than is sufficient for preserving the constitution, or that they will never consent to keep up any number, longer than it appears necessary for defending us against foreign or domestic enemies, is to tell us what no man can answer for. Suppose there should be a majority in each House of Parliament, consisting of officers of the army, and other instruments of an administration; can we suppose that such a parliament would have any regard to the preservation of the constitution, if it should appear to be inconsistent with the preservation of the minister upon whom they depended? and suppose we had the misfortune to have, at that time, a prime minister, contemned abroad, and hated by every man at home, except those who were his immediate tools; can we suppose that such a parliament would not give their consent to keep up a Standing Army, not for preserving the constitution, but for preserving the minister, by destroying the constitution?

Sir, a numerous Standing Army, kept up by authority of parliament, is more dangerous to our liberties, than such an army kept up without any such authority; because in the latter case, the people would immediately see their liberties were struck at, and would therefore take the alarm; but in the former, they would probably, by the interposition of parliament, be lulled asleep, till their fetters were rivetted. This I have long endeavoured to prevent: this, while I live, I shall always endeavour to prevent; and therefore I am now for reducing the army to 12,000 men; for even that number I think greater than is altogether consistent with the safety of our constitution. The very Resolution this House comes to yearly, with respect to the number of our land-forces, shews that it is. By the words of that Resolution, we ought to have no marching regiments quartered up and down the country, to the oppression of our inn-holders, victuallers, and other public-houses, and to the debauching of the morals of all ranks of people. We ought to have none but guards and garrisons. Our guards ought never to consist of above 4,000 men; and I should be glad to know where the garrisons are in Great Britain, or in Guernsey or Jersey, that require no less a number than 8,000. Therefore we ought

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to alter the words of our Resolution, or we ought to reduce our army even below 12,000. However, as other gentlemen seem willing to allow 12,000 for the service of this ensuing year, I shall not be against that number.

Mr. *Lyttelton:*

Sir; I am really surprised at the silence on one side of the House. Sure this question is of importance enough to deserve a debate. How great an evil soever a Standing Army may be, this way of treating such a question is worse; it is the highest contempt of the constitution imaginable. Sir, if we go on thus, will people be silent out of doors too? I wish they may; for if they talk of our proceedings, they will talk in a language that will not be much for the honour of the House.

Sir, as a good deal has been said about the abuse of the press, by one of the very few gentlemen who have deigned to speak in this debate, I beg to be indulged in a few words upon that article. A free examination of all measures of government, and of the characters of ministers, so far as their characters are inseparable from their measures, is the life of a free state: it is what no good minister will ever call an abuse of the press: it is what no good minister would desire to restrain. But attacking the private character of a minister, his private defects or frailties, in which the public is not concerned, this indeed is libellous, and this cannot be justified: nor can abuse thrown out upon private persons, be excused in those who are the dirty tools of calumny, or in the more dirty patrons who employ and pay such tools: this, Sir, is infamous, and this should be restrained. But how restrained? by contempt, by disregard of it, by a fair and safe appeal to the candid sense of mankind; or in very flagrant cases, by the due course of justice and law: not by strains of authority, not by Star-Chamber work, not by the extraordinary exercise of discretionary powers, from which the guilty and the innocent may suffer alike: this should be carefully avoided in a country of freedom, not for the sake of these writers, but for the sake of the constitution, for the sake of liberty, and that the law of the land may be the rule and measure of all men's security. But for God's sake, Sir, how comes the abuse of the press to be a point insisted on in the debate of to-day? what has that to do with 18,000 men? are our dragoons to be licensers of the press? I hope they are not.

As to the uncertain situation of affairs abroad, (that I think, was the term used by the hon. gentleman over the way) I will say but one word. Why have we called home our fleets? To deprive ourselves of the only means we have of hurting our enemies, by recalling our fleets upon the presumption of a peace, and then to deprive ourselves of the fruits of a peace, by keeping up our army to the number of last year, is I confess, a policy which I do not comprehend. Is this Convention, which we have concluded, something or nothing? Sir, I think it worse than nothing; but as there are some gentlemen who speak very highly of it, if it deserves the encomiums, I should be glad to know, for what this number is asked? Why, to support the peace, it seems. To support it, Sir, against whom? Not against ourselves I hope, not against the nation. If the peace be what it ought to be, we shall have no enemies, and it will support itself; if it be bad and dishonourable, to have it supported by an army, is a sad resource indeed: it is such a support as despair only could want: it is such a support as I will not imagine possible.

But gentlemen say, it will give weight to our measures abroad. What weight has it given? I appeal to experience. Is not the period of our keeping up this number of men, the most inglorious period of the English history? Has not every year been marked out by some new indignity, some new dishonour, some new proof of contempt? Have we been armed of late to any other purpose, than to make our tameness appear more ridiculous? For my own part, Sir, I must say, that were I determined to suffer myself to be robbed without any resistance, I should think it was judging very ill, to travel with arms.

Sir, with regard to disorders at home, neither what has been said by the hon. gentleman who spoke just now, nor by any other gentleman in my eye, who enlarged much upon them, has any weight in a question, whether 18,000 men, or 12, should be the number kept up. For, surely, 12,000 men are force enough to quell these rioters. But from what all those gentlemen have said, I draw a further conclusion, that for disorders of this kind, an army is not, cannot be the proper remedy, since the evil encreases under it, as experience proves. The proper remedy is giving

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authority to the law; and this can only be done by right measures of government. An army may give strength to a bad administration, but a good administration only can give strength to laws, and to that we must have recourse, or these disorders will continue, though we should augment our troops to 50,000 men. Confirm his Majesty in the affections of his subjects, and he will want no security in his own dominions. Sir, I have seen a proof of this. I have lately had the satisfaction to see all sort of respect from all sorts of people, paid to two of the royal family, when they had no guards. They could not have been safer, they could not have been respected so much, if they had been attended, in the journey they made, with all the household troops of the king of France. Sir, I saw the people clinging to the wheels of their coach, out of affection to them, to the king, and to his family. I say, I saw them clinging to the wheels of their coach. Had there been guards about it, they must have kept further off.

As I can see no good use that can be made of these troops, and as I will not suppose that any bad one is intended, I must conclude they are kept up for ostentation alone. But is it for his Majesty's honour to put the lustre of his crown, to put his dignity upon that, in which he may be rivalled by every petty prince of any little state in Germany? For, I believe, there are few of them now, that cannot produce at a review, an army equal to ours both in number and show. If the greatness of a state is to be measured by the number of its troops, the elector of Hanover is as great as the king of England. But a very different estimation ought to be made of our greatness: the strength of England is its wealth and its trade: take care of them, you will be always formidable: lose them, you are nothing, you are the last of mankind. Were there no other reasons for reducing the army, it should be done upon the principle of œconomy alone. It is a melancholy thought to reflect how much we have spent and to how little purpose, for these 16 years past.

Sir, could it be said, we are indeed, loaded with debt, but for that charge we have encreased our reputation, our commerce flourishes, our navigation is safe, our flag is respected, our name honoured abroad: could this be said, there is a spirit in the people of England, would make them cheerfully bear the heaviest burdens. On the other side, could an opposite language be held, could it be said, we have indeed no victories, no glory to boast of, no eclat, no dignity; we have submitted to injuries, we have borne affronts, we have been forced to curb the spirit of the nation, but by acting thus, we have restored our affairs, we have paid our debts, we have taken off our taxes, we have put into the power of the king and parliament to act hereafter with more vigor and weight; could this be said, this also might be satisfactory. But to have failed in both these points at the same time, by a conduct equally inglorious and expensive, to have lost the advantages both of war and peace; to have brought disgrace and shame upon the present times, and national beggary upon ages to come, the consequence of which may be national slavery; such a management, if such a management can be supposed, must call down national vengeance upon the guilty authors of it, whosoever they be, and the longer it has been suspended, the more heavy it will fall.

The question being put, the Resolution was agreed to. On a division, Ayes 253. Noes 183.

Debate in the Commons on the King's Children Annuity Bill.] May 3. The following Message from the King was presented to the Commons:

"G. R.

"His Majesty being restrained by the laws now in being, from making provisions for his younger children out of the hereditary revenues of the Crown, in such manner as his royal predecessors have usually done; and being desirous that competent provisions should be made for the honourable support and maintenance of his dearly beloved son the duke of Cumberland; and of his dearly beloved daughters the four younger princesses; his Majesty hopes that he shall be enabled by act of Parliament, to grant an annuity of 15,000*l.* per annum, to the duke of Cumberland and his issue, and an annuity of 24,000*l.* per annum to the four princesses, to take effect after his demise, and recommends the consideration thereof to this House."

Sir *Robert Walpole*:

Sir; the Message that has been read will, I dare say, meet with no obstruction in this House. It is with pleasure, Sir, that every good subject sees the royal line so strong as to insure a long duration

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of happiness to these kingdoms, in the persons of his Majesty's descendants; and the attachment of his royal house to the liberties of this nation, give us all reason to hope that succeeding princes will tread in the paths of his present Majesty, who has been hitherto so careful of all his subjects' rights, and so watchful over their preservation.

Sir, his Majesty has been so tender of asking for any thing on account of his own family, that they are now, in case of his demise, in a more precarious situation than the children of any gentleman of fortune in England. In such an event, Sir, which Heaven avert, no gentleman can, from the history of our constitution, take upon him to say in what manner they have a right to be provided for. I believe a future Parliament would reflect with gratitude upon the blessings of his present Majesty's reign, and make a suitable provision for his royal progeny; but I imagine no gentleman in this House would chuse to leave the provision of his younger children upon a precarious footing. Parliaments, like other bodies, are changeable: and it would be an unpardonable neglect in his Majesty as a father, should he leave so numerous an issue to the uncertainty of a parliamentary provision to be made after his demise.

The only other method, by which his Majesty's younger children in such a case could be provided for, is by the prince upon the throne. But, Sir, though I have, and I believe every gentleman has, the greatest opinion of the virtues of the royal person, who is the heir of the crown, yet we are to consider, that his royal highness is blessed with a young progeny; and that, as no man can answer for events, if the two royal lives should fall before the children of his royal highness are of age, the government devolves upon a regency; and give me leave, Sir, to say, that there is no precedent in this nation, nor any positive law now in being, that can determine, as the royal family must in such a case stand, to what person the regency devolves. This consideration is of itself sufficient to justify the application now made by his Majesty to this House; it is no more than any private gentleman would do to put his younger children above a precarious dependance, and I dare say, that no gentleman will think that his Majesty ought to be put under disabilities, which every one here, who is a father, would look upon as hard and unreasonable.

I hope gentlemen are fully convinced, how becoming it is in his Majesty as a father to make such an application, and how becoming it is in us as a House of Commons to answer it in the most effectual manner; the only consideration, therefore, that gentlemen can now have, is with regard to the quantum, that is demanded by this message. As to that, Sir, I will venture to say, that when we grant it, it is the smallest provision that ever was made for the Crown of Britain; nay, the whole of the provision for four royal personages does not amount to one half of what former parliaments have thought but a moderate provision for one. King James, Sir, when duke of York, had 100,000*l.* settled upon him by act of Parliament; and that I think is the only parliamentary provision for younger children, that can serve as a precedent on this occasion; because it is the only one since the restoration; for before that time the Crown had a great property in lands, and could without a parliamentary concurrence provide for its younger children. King Charles 2nd had no lawful issue of his own body to provide for; the children of king James were married, and their settlements made before he came to the Crown; king William had no children; queen Ann had none, that lived till after she came to be queen; and the daughters of his late Majesty were married before his accession to the throne of Britain. Upon the whole, therefore, I believe there never was a demand made by the Crown more reasonable and moderate than this is. It is for a provision to younger children, which cannot be made without consent of Parliament, and a provision so moderate, that I dare say no other objection to it will be made in this House, but that it is too little. Therefore I humbly move, "That leave be given to bring in a Bill to enable his Majesty to settle an annuity of 15,000*l.* per annum, upon his royal highness the duke of Cumberland, and his heirs, and also one other annuity of 24,000*l.* per annum, upon the princesses Amelia, Carolina, Mary, and Louisa."

The Answer to this was as follows:

Sir; I do not stand up to oppose this motion, so far from it that I agree in all that has been said in favour of his Majesty's paternal care, both of his family and his kingdom. I farther agree that the provision to be made by Parliament in favour of his royal highness is rather too

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scanty; I wish, Sir, the message had asked for more; because the more independent any person so near the Crown is, so much the more security we have for the enjoyment of our rights and liberties.

But though I have no objection, yet I have some difficulties with regard to a Bill of this kind. The hon. gentleman has observed very properly, that this provision cannot be made without our dispensing with acts of parliament, by which our kings are bound up from disposing of any of the hereditary revenues of the crown, during their own lifetime. Now, Sir, I am not lawyer enough to know whether our agreeing to a mortgage (for this is no other) of the hereditary revenues of the crown may not be looked upon by the next prince as an injury done to him as the heir of entail. This, Sir, I do not mention as an objection, but as a thing that may be proper to be considered.

At the same time, Sir, I cannot but take notice, that the present circumstances of this nation, when a war with Spain seems unavoidable, call aloud that we should be as sparing as possible of every thing that may beget a future burthen to the people. I have often observed in reading, and sometimes from my own experience, that the Civil List is of a very growing nature, and I am afraid that our passing this very Bill may, in time to come, saddle the nation with 39,000*l.* a year more than it is at present. My reason is, that the ministers of the succeeding prince will in all probability take occasion to apply to parliament to have this 39,000*l.* made up to the Civil List. For this purpose they will use the greatness of the present Civil List as an argument; they will insist upon it, that it is unreasonable the crown should then have a smaller revenue than it had in the reign of his present Majesty; and we know the complaisance of late parliaments too well to doubt that they will refuse to make it up the full sum that his present Majesty enjoys. But the misfortune to the nation does not lie here only; for when the money which we are to settle on the younger children of his Majesty by this Bill, shall revert to the hereditary revenue, I am afraid that the money granted by parliament to supply it, while it was deficient, will never revert to the nation. My reason for fearing this, is because I could never hear of the Civil List giving up any thing it was once possessed of, however the causes for which it was granted might cease.

This naturally brings me to another consideration. Every body is sensible what a vast Civil List was granted by parliament to his present Majesty; and that it had not been so great, but with a view that the Prince of Wales was to have out of it 100,000*l.* a year, at least as soon as he should be married, and have a family to maintain. Another consideration, that prevailed with parliament, was his Majesty's numerous family, and the expence of the queen's houshold. Now, Sir, I believe most gentlemen are sensible, that the Prince of Wales's income from the Civil List, does not exceed one half of what the parliament meant he should enjoy; and that by the death of the late queen, there is at least a saving of 50,000*l.* a year in his Majesty's expences. Therefore there is now in the hands of the minister at least 100,000*l.* per annum more than the parliament intended there should be, when the present Civil List was settled; and yet I do not hear of any ease that the public has got. I should be glad to know, Sir, why this 100,000*l.* a year is not laid up for provisions to the royal progeny; if it were, I am sure in a very few years, and heaven be praised there is a natural probability that his Majesty will live a great many, there would be a very handsome provision for all the royal issue, without any burthen to the public.

God forbid, Sir, that it should ever be insinuated, as if his Majesty ought not to have the same privilege with any private gentleman to provide for younger children; but I do not remember, Sir, any instance of an annual provision made by parliament in favour of the younger daughters of the crown. The Princess of Orange indeed had an annual provision, but that was in consideration of her being the eldest daughter; and to enable her the better to support the dignity of the eldest daughter of the crown of Britain. At present, Sir, frugality ought to be our favourite virtue, and though the sum mentioned in this Message is very moderate, yet I hope those gentlemen, who are in this House and in the ministry, will advise such frugal measures, as that a provision may be made for the issue of his Majesty, without laying any additional burthen upon the nation.

Sir *William Young*:

Sir; I am glad that the hon. gentleman who spoke last did not oppose the Bill for it would be very strange, if such a Bill, had met with the least opposition in this

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House. But if I did not mistake, he thought it would be a little dangerous for us to set aside a positive Act of Parliament against the king upon the throne, alienating any part of his hereditary revenues. As to that point, if it be considered, this act was made in the reign of the late king William, and yet a very few years after it was set aside in the case of providing a settlement in favour of prince George of Denmark. I never heard that the parliament in those days thought any inconveniency could arise from that exception; and I am sure that on this occasion there is a great deal more to be said in favour of such an exception than there was on that. Besides, this act was never meant to bind up our princes from being able to provide for younger children; it was only meant to prevent the hereditary revenues being disposed of without consent of parliament; because it may be possible for a prince to make such alienations as may not leave a sufficient revenue to support the dignity of his successor. But all that his Majesty requires by this message can never affect the revenues; for some provision to be sure would be made for the younger children of the royal family; that provision must come out of the pocket of the nation; and this message is only to ascertain the Quantum, and the manner of such a provision, that his Majesty may have the satisfaction of knowing that his children have a certainty to depend upon.

As to the legality of giving our consent to his Majesty's making such a provision, I cannot see the least foundation in the world for doubting of it. The honourable gentleman talked of its being like making a mortgage, without consent of the heir of entail. Sir, under favour, I think this House does not need the concurrence of any person to enable them to bring in a Bill of this kind. I apprehend, that an act of parliament can bind any succeeding prince; and that the revenue, which is to fall by this Bill to the younger children of the royal family, will be theirs as much as any gentleman's estate is his own; and that they will have the very same right to it, that the prince upon the throne will have to his revenue.

The fears which the honourable gentleman seemed to be under, least this Bill, if it shall pass into an Act, may increase the revenue of the crown, seem to me to pay no great compliment to the understanding or honesty of succeeding parliaments. I apprehend, Sir, that you have many instances upon your journals of the parliament's making reductions of grants, when the reasons for them ceased. If gentlemen will foresee contingencies, that are but just barely possible, I do not know any thing we can do, to which unanswerable objections may not be made. Our passing this Bill is, I am sure, a right thing in itself, and I shall never be afraid of doing a right thing now, because a wrong thing may be done by others hereafter.

The hon. gentleman mentioned the Civil List, as if it were sufficient for supplying all the ends of this Bill. But when gentlemen (as they very often do) talk of the greatness of the Civil List, I wish that they would at the same time consider how much there is to do with it. His Majesty has a more numerous family than any prince that has sat for many years upon this throne; and if we consider the expences that attend the maintaining such a family with proper dignity, I will venture to say, that it even requires economy to make the Civil List, great as it is represented to be, to defray them, and to answer all the other demands. It has always been thought worthy of the case of parliament, to make special provisions for the younger children of the royal family; and I hope this Bill will pass the House with that dispatch, which the advanced season of the year, and the reasonableness of the thing itself requires.

*Debate in the Lords on the King's Children Annuity Bill.**] May 14. On the third reading of this Bill,

Lord *Delawar* rose and said:

My Lords; I believe it would be quite unnecessary in me, to take up your lord-

* *From the Secker Manuscript.*

May 14. Debate on the Bill for making Provision for the Duke and Princesses.

Delawar. Read the Bill a third time.

Carteret. This is an original, which will be carried into a precedent for ever. This House might have had a matter, which is not a common Money Bill, communicated to it from the throne. To make a distant provision for younger children, when there is not a sufficient provision for the eldest, is improper. If one of the Princesses die, her share should cease for the benefit of the public. In ancient time, the first daughter of the Crown had a provision, but not the rest. The princess of Orange was wisely and generously married. Several advantages may arise from that match. Her fortune was

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ships' time, in demonstrating the fitness and necessity, that his Majesty should be empowered to make a suitable settlement upon the younger children of his family. Nature, my Lords, dictates to his royal breast, that they ought to be provided for; and it is both our duty and interest that, in the worst of events, (which God forbid) all the branches of the royal house should be above dependance. Every nation in Europe is proud of seeing the younger children of their royal family

no load to the public. It was money which belonged to the Crown; but the Commons had laid their hands upon it. The provision made for the Duke is too scanty to take place at the demise of his Majesty. If the King had now given him this money, and desired a concurrence to carry it on in the next reign, I would have agreed to it. The Settlement for him should take place at present, that he may not be under a money dependency whilst he is to sit here. What security is there for this money? Kings can govern no longer than they live, and there is no binding the future sovereignty of this nation. No King can ever think 15,000*l.* a year enough for the Duke. The bishop of Osnaburg is not 40 years old. I do not want to throw out this Bill; but to postpone it till the King shall send a message that he hath given Letters Patents for so much to the Duke. The proper provision for ladies is marriage: and this should be thought of.

Newcastle. It is not necessary to make things a town talk before they are done. The Settlement of the princess of Orange came by Bill hither. The jointure of the late queen and present princess of Wales came in the same way: only these things have gone through in one day, whereas this hath been depending a week. The death of the queen makes a provision of this kind more necessary: and nothing relating to the prince can affect it. The King's predecessors till of late years have had the power of charging the Civil List: till the beginning of the late queen's reign she had power to charge the hereditary revenue: she had no children, and every body knows why an act was made to limit that power. Now this limitation is not repealed by this Bill, so far as relates to the children of the Crown, but only with respect to such a sum; which is as small as possible; but little is better than none. The King asks nothing in present nor ever will; but when a proper time shall come, will make a proper Settlement on the Duke. Is there a private family in the nation the head of which, if he had a possibility of doing something like this, would not do it? An act of Parliament will tie up every future prince's hands. Not that there is any danger of an attempt in this case. Alliances in marriage are more confined in this Royal Family than in others: and therefore there is more need of another sort of provision.

Talbot. I object against the period from which it is to commence, and the King's giving nothing at present. This administration is not more a Civil List administration than another. All parties are out-bidding one another upon a new reign, and setting his Majesty up to auction. The sum of 56,000*l.* hath been slipt into a Bill without being known, and the Civil List exonerated of it. The same dirty cunning may exonerate the Civil List of this sum in the next reign. But with such practices as these, there will be an end of liberty, or there must be a struggle for it, as I know there will.

Bathurst. The regular motion is to commit the Bill. You have sometimes gone out of that method but when nobody hath opposed it. For there is a standing order against it which cannot be dispensed with, but by first summoning the House to consider of it. Make it an instruction to the Committee that they prepare a clause, that the Duke may be vested in 15,000*l.* a year on his coming of age and taking his seat in this House. Ask the Judges whether vesting it thus, doth not corroborate his title.

Delawar. If a motion be put to commit the Bill, the Question must be put. But several have gone through without being committed. And I never heard of any body without doors against this Bill.

Hervey. Shall the King be the only person that shall not be allowed to make provision for his Family? The Civil List is not given the King for posthumous works. The Excise and Post-office were charged for prince George of Denmark. For a year and a half this matter hath been the topic of many conversations, and hath never been spoken against. If it be opposed here whilst the King's health is good, what would be done if he were sick? It is natural, considering the present circumstances of the Royal Family, that this step should be taken. If the next successor comes in peaceably, he hath no better title to the Crown than his brother and sisters will have to this allowance. What the noble lord who spoke first said, *suits a turban'd head in the Divan of Ispahan or Constantinople, where fetters are rivetted by the sharpness of Swords.* In the case of a minority, this Bill is yet more necessary. Suppose a subject Guardian, would you have the duke and princesses depend on that Guardian. The duke ought to be dependant on his father, and nobody else. It is a breach of compact with the King to bargain with him afterwards, that he shall give so much to his son. Giving 15,000*l.* a year is barely and scantily providing a subsistence, not enabling them to raise factions in the kingdom.

Chesterfield. My attachment to the King is a disinterested, unexpecting and undesiring one. The public from having long born needless loads is now become unable to bear necessary ones, and it ought not to be saddled with

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make a figure in the world. The provision which his majesty has been pleased to make, is but very moderate: 24,000*l.* per annum can never be thought too much to the four princesses; and 15,000*l.* per ann. is less than I believe any second son of the royal family ever had before. The younger brother of Charles the 2d, had 100,000*l.* settled upon him: and the small allowance to the duke, mentioned in this bill, is a proof of his Majesty's moderation, and that he has the good of his kingdom, and the ease of his subjects, always first in his thoughts. Therefore, my Lords, I humbly move that this bill be now read a third time.

Lord *Carteret*:

My Lords, the worst enemy I have in the world, I am persuaded, will not question my zeal for the royal family. But I have several objections to this bill. In the first place, my Lords, I wish it had been brought in at a more proper time than this, when the appearance of a war with Spain calls upon us to be as saving of the public money as possible. In the next place, my Lords, as the kings of Great Britain are accountable to none but Heaven alone, I am afraid, that if his majesty should die, (which God forbid) the next heir may look upon this settlement as a mortgage of his revenue, which a parliament has no power to make, and might refuse to pay it. My Lords, I do not speak without authority, I speak according to the principles of our constitution. Another reason, my Lords, why I am against this bill, is the manner in which it is now brought in, because we cannot pass it without dispensing with a positive act of parliament made in the reign of William 3, and which act binds every future king up from disposing of the hereditary dominions of the crown, longer than his own lifetime. Besides, my Lords, formerly, no daughter of the royal family ever was provided for by Parliament, except the eldest, and that never was by way of annuity, but an express provision of a determinate sum of

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paying fortunes for unmarried princesses. The Civil List is for a provision for the Royal Family, this is more than a present maintenance, and Civil Lists are always granted in a tender moment. All parties are contending for the favour of a most gracious prince. Sentiments of patriotism are laid aside. The new King therefore must be better provided for than the former, and the next Civil List will be better than this, the present Civil List hath been exonerated of 36,000*l.* not so naturally as the next will be of 39,000*l.* An increasing Civil List the most dangerous thing in the world. The Houses of Parliament may pull down their walls to let in this machine. The King is not accountable only to God. But a future legislature may repeal this Bill and a larger Civil List may tempt a legislature to it. Could any private Bill so circumstanced as this pass through the House not having the consent of the tenant in tail. Why should there be a distrust but there will be a provision made by the successor. He can never provide for them so cheap. The Prince's three children are totally unprovided for: what if he should die: they are not only unprovided but unprayed for; a very scanty provision is made for the next heir to the Crown. At his accession the public must pay his debts. Every lord here would abhor dependance were it necessary for his support: much more should it be abhorred in the case of the Duke.

Hardwicke. C. This provision hath been represented as too great and too little, too certain and too precarious. If there were any danger of a successor endeavouring to set aside this act, much more would he refuse a provision if there were no act. The hereditary estate of the Crown is not to be compared to an estate in tail. It is an estate in fee simple, though restrained by 1 Ann from being aliened, and the legislature may and on proper occasions should relax this, and concur with the Crown in what the Crown could before have done alone. If such a case as the present had been objected against that act it would have been answered, that in such cases the legislature would always consent. You have here all the parties before you. This Bill doth not, as it was expressed, saddle the public with portions; it only gives annuities till marriage, but doth not say by whom the portions shall be paid. Would it have been proper for the King to leave them without a provision if the hereditary estate had continued subject to his disposal. None of your ancestors ever thought of the independency of the younger children of the King, nor will their dependency ever hurt liberty, preserve yourselves independent and it is enough. If this Bill be really opposed, and in earnest, lords may insist on its being committed in order to debate it more fully; but not to amend, much less to receive the instructions proposed; for it cannot be given consistent with the rules of Parliament. No such thing can be done in either House without the consent of the King, for the revenue is vested in the Crown, and cannot be taken away otherwise.

Question whether read the Bill a third time without committing it first.

C. 78, of whom bishop of Oxford one.
N. C. 27.

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money paid by way of dowry. The princess of Orange, indeed, had an annual settlement granted her by parliament, but that, my Lords, was an extraordinary case. The House considered the present low circumstances of that illustrious family, which, perhaps, without such an assistance, could not provide a maintainance suitable to the dignity of the first daughter of Great Britain.—Fifteen thousand pound, my Lords, is but a very moderate provision, I own, for his highness the duke. It is perhaps too little, and I have no objection to our granting it, provided it is done by way of independent provision, and that his highness shall enter on it, either at the time of the commencement of this Bill, or when he comes of age.—But, my Lords, my great objection to the bill is, that in the event it will be found to put 39,000*l.* in the pockets of the minister. Consider, my Lords, that when the present vast civil list was granted, it was granted with a view, that the prince of Wales was to have at least 100,000*l.* per annum out of it. The house considered likewise, that his majesty had a large family, that he had a queen alive, and they made it about 100,000*l.* more on that account. Now, my Lords, it is well known, that the prince of Wales does not enjoy above 50,000*l.* per annum out of the civil list. Here are 50,000*l.* per annum saved to the government. By the death of the queen, at least 50,000*l.* more are saved, which makes 100,000*l.* a year. Now, my Lords, if this 100,000*l.* were laid up for independent provisions to the daughters of the royal family, there would be soon no need for this application: or if the public were eased of so much of its annual burden, I should not oppose this bill. But, my Lords, it is plain there is to be no saving to the public, for the civil list still continues the same, and it appears from this bill, that the money thus saved is not intended for that use. For these reasons, my Lords, I think we ought, at least, not to be in such a hurry in carrying through this bill: therefore, I am for putting off its being read a third time at present.

The Duke of *Newcastle*:

My Lords; I think it hard that his Majesty should be put in worse condition than any private gentleman in Great Britain, who thinks it his duty, if he has children, to provide for them. The noble lord's reason drawn from what was the former practice in parliaments, has no weight with me at all: for when provisions for the younger children of the royal family were made before the Restoration, the royal revenues were quite upon a different footing from what they are at present. These kings then enjoyed a considerable estate in land, out of which they could provide for all their younger children without consulting their parliament. Since the Restoration, my Lords, I think this is the first instance of a king of Great Britain requiring any provision to be made for the younger children of their family. Charles 2 had none to provide for: those of James were married before he came to the throne. William 3 had none: queen Anne had but one son, who died before her accession: and the daughter of king George 1 was married before he was king: therefore, my Lords, we have no precedent that answers this case. The noble lord says, that if we pass this bill, we must dispense with an act of parliament. My Lords, that is the very reason why we should pass it, because though the thing is absolutely proper in itself, yet it cannot be done unless we pass this Bill. As to his lordship's objection to encreasing the civil list, I think it has nothing to do with the present question. If the purposes for which the civil list is granted, are answered, we have no right to ask an account in what manner the money is applied, or through whose hands it passes. If his Majesty has a larger civil list than his predecessors, he has likewise more to do with it, and there is not a child in the royal family, who is not supported as liberally as the civil list can afford.—I had almost forgot another objection of the noble lord's; his lordship seemed to doubt if this act of parliament could bind a succeeding king. My Lords, I never heard such a doubt proposed before in this House. I hope never to hear such another proposed, and of all mankind I am surprised, how the noble lord, who understands our constitution so very well, should start such a difficulty. For my part, my Lords, I never before heard it questioned, that an act of parliament was not binding upon every king, who shall succeed to this throne. Therefore, my Lords, I hope the motion will be agreed to.

Lord *Talbot*:

My Lords, I am sorry that I am obliged to give a negative to a motion that carries with it an appearance of zeal for the royal family. But, my Lords, the vast increase of the civil list is a circumstance which we

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ought most to dread at present, and to guard against hereafter. I confess, my Lords, there may, on several occasions, be very good reasons for augmenting that revenue; but do we ever find, when those reasons cease, that the augmentation ceases? It has been observed, my Lords, when a king comes to the crown, the ministers, to ingratiate themselves in his favour, endeavour to outvie each other in engaging for a large civil list; and he that bids highest, as at an auction, generally carries his point. Now, my Lords, in such case, this very Bill, should it pass, would be given as one reason to the parliament for granting 50 or 60,000*l.* because it had been granted before; which is just so much money levied on the people for the purposes of the minister, without any necessity or reason then subsisting, whatever there might be at first. On which account, and because I believe the royal family may be provided for otherwise, I do not chuse to give my consent hastily to the present motion.

The Earl of *Chesterfield:*

My Lords: my zeal for the royal family has I hope never been questioned: however I can truly declare, it is a zeal quite disinterested: it both unexpecting and undesiring. I hope therefore, my Lords, that what I shall offer with regard to this question, will not be thought to proceed from any motive but the interest of my country.

My Lords, burthens unnecessarily borne disable the nation to bear necessary ones. I look upon this Bill as saddling the public with a burthen, which I allow it is not at present charged with, but which must be hereafter entailed on the nation. For if we consider the nature of mankind, the new king is always better than his predecessor; and it will be unreasonable to deprive so good a king as the next or the next after him, who is to succeed, of any part of what his predecessors enjoyed, though perhaps not one of the reasons, for which it was granted, exist. But, my Lords, I am of the noble lord's opinion who spoke first against the motion, that this Bill might possibly not be regarded by a succeeding king, since it is the same thing as mortgaging an estate without consent of the heir of entail, who as soon as he comes to age, may dispute the legality of the mortgage. This is all that the noble lord, I dare say, meant in what he threw out on that head. And if a future king, my Lords, should take it in his head to dispute the authority of this Bill, I should be glad to know what redress the other parties could hope for, or where they could apply for relief.

But, my Lords, let us consider that while we are thus providing for certain branches of the royal family, who certainly merit more than we can bestow, there are other branches of it nearer to the throne, who are not only unprovided for, but *unprayed* for;* it would have been decent, at least, that some care should have been taken of them.

As for the provision to be made for the duke of Cumberland, I have no objection to it, but that it is too mean, and that he cannot enjoy it as an independent provision, either upon the commencement of the bill, or when his highness comes of age. His highness, my Lords, will, in a very few years, have a right to sit and vote in this House; and is it fit that the third person in the kingdom should have only a precarious dependance, that every lord in this House would I am sure disdain? His Majesty, were he in his highness's place, would disdain such a dependance; and every nation abroad must be apt to have a very mean opinion of the wisdom of this kingdom, if we should suffer the son of

* "At this time, every measure, however innocent or indifferent, that passed either House of Parliament, was looked upon to be dictated by the minister, and promoted by him from some private view. This notion, which was universal, subjected him to a great deal of personal satire; nor did even this harmless, unexceptionable Bill, go through the House of Peers, without his being lashed by his enemies. The prince of Wales, at that time, lived abstracted from all court connections; he was in high popularity, and having a growing issue, notice was taken, in the course of the debate, that his children were not only unprovided for, but unprayed for. This observation arose from the form of prayer for the royal family, which had been issued from the privy council, upon the marriage of the prince of Wales, where the duke's name stood next the prince and princess of Wales. The House understood this observation to be levelled at the minister; but the earl of Wilmington, who seldom spoke in any debate, broke his usual silence on this occasion, and informed the House, that he himself was the person who had counselled his Majesty to order the form of prayer to be as it then stood, and that the minister knew nothing of the matter. This generous, frank declaration had the desired effect, and the Bill passed without farther opposition." Tindal.

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our King to be the only person in this House who must depend on the pleasure of a minister for his daily subsistence.

As to the increase which the civil list, in a future, perhaps in the present reign, may acquire by this bill, I think, my Lords, it is a consideration of the highest importance to this House; especially, if what is commonly said, be true, (I tremble to speak it) that the present monstrous civil list is in debt. My Lords, I do not pretend to the gift of prophecy, but I do foresee that the fatal blow to the constitution of this kingdom will come from the exorbitancy of the civil list: I foresee, that if proper measures are not taken to prevent it, it will become pregnant with secret mischief, till, like the Trojan horse, it will be so unwieldy, that, in order to admit it, the wall of this constitution must be one day broken down.

The *Lord Chancellor:*

My Lords; I did not imagine that there would have been the least debate upon this motion. It is so very reasonable that his Majesty should have it in his power to provide for his own family, that if your lordships would bring his Majesty's case home to yourselves, I dare say there will not be the least difference of opinion. I think the reasonableness of granting a provision to the princesses, has, in effect, been admitted by the lords who spoke against this motion. The only difficulty that remains, is with regard to the dependancy of the provision of his royal highness the duke, and to the increase which this may make to the civil list. As to the first objection, my Lords, I believe there are none of your lordships, who are parents yourselves, who would not wish to have your children dependant of you; the independancy of children, my Lords, is a great temptation for them to neglect their natural duty to their parents. I believe his highness the duke has all the sentiments of a dutiful son, and, for that reason, my Lords, he never will take it amiss, that, during his Majesty's life-time, he is dependant on him. Nor, my Lords, is it in a minister's power to make their subsistance precarious, after it is settled by act of parliament. As to the increase that this may bring to the civil list, I cannot see the least reason for such a suggestion. Future parliaments are always judges how large or how small a civil list ought to be; and, if the public exigency should require it, there is not the least doubt, but that the parliament would reduce the civil list in proportion as the causes for the granting it shall cease.

Lord *Hervey:*

My Lords; since I had the honour to sit in this House, I never heard such arguments advanced upon any subject, as have been advanced on this. The noble lord who spoke first, said, that he did not think that a king of Great Britain was to be bound by an act of parliament. This, my Lords, was a maxim fitter for a Turkish divan, than for a British parliament. I hope never to live, my Lords, to that time, when an act of parliament shall not bind the King, as well as any private man in his kingdom; and if the parliament shall confirm this settlement by an act, his royal highness and the princesses have just as good a right to it, as any king has to his crown.

The noble lord said, that we must dispense with an act of parliament in order to pass this bill. My Lords, that is no new thing; for that very act was dispensed with in the first year of queen Anne, when a provision, on the same foot with the present, was made by the parliament in favour of prince George of Denmark. Another noble lord spoke of other branches of the royal family not being either provided or prayed for. My Lords, that is too delicate ground to tread upon, and it is not quite decent to bring such a case into this debate.—But, my Lords, give me leave to observe, that there is one thing that ought to have great weight with your lordships on this occasion, and that is, the precarious footing which the subsistence of any younger child of the royal family must be on, in case of a regency. I hope, my Lords, his Majesty, and the Prince of Wales, will long sit upon the throne; but, my Lords, if these two lives were at an end, which God forbid, our laws are quite silent with regard to the right of being regent during a minority. This, my Lords, is perhaps the greatest blemish in our constitution. And therefore, as it is impossible to foresee events, your lordships will act but prudently in putting the subsistence of those, for whom we ought all to have so great a regard, above the reach of any person whatsoever.

Lord Bathurst then said, that there was a standing rule in the House, that every bill should be committed; and therefore moved, that the bill should be committed. The Lord Delawar answered, that it was

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very common for bills to pass without being at all committed; and that if the forms of the House were to be dispensed with, it ought to be on that occasion. The question being put, for reading the bill a third time without committing it, it was carried in the affirmative. Contents 78, Noncontents 27.

*Debate in the Lords on the Treaty of Subsidy with Denmark.**] May 10. The Duke of *Newcastle* laid before the House the Treaty of Subsidy between his Majesty and the king of Denmark; by which the former was to pay to the latter 70,000*l.* per annum, and the latter was to furnish to his Britannic Majesty a body of troops of 6000 men, to be ready at his Majesty's call, who was to pay 50 crowns, by way of levy-money, for each foot soldier, and 80 for every horseman. At the same time his grace delivered a Message, signifying, that his Majesty hoped the House would enable him to make good his said Engagements with the king of Denmark, and also enable him to raise what money and troops the exigency of affairs, during the approaching recess, might require.—After which, his Grace expressed himself to the following effect:

My Lords, as his Majesty's most gracious Message to this House consists of two parts, one of which relates to the Treaty lately concluded with the king of Denmark, which he has been so good as to order to lay before us, and the other to the Augmentation of his Forces, and the other measures that may, in this critical juncture, become necessary; I shall beg leave to consider them distinctly, and in order, as they stand in the Message. As

* This Debate is taken from the London Magazine.

"Fortunately for the minister, the absence of the seceding members delivered him from much of that embarrassment which he must have experienced had they remained in the House during the discussion of the Danish subsidy, which was, nevertheless, a subject of considerable obloquy and misrepresentation. The King, as elector of Hanover, had purchased the castle and lordship of Steinhorst from the duke of Holstein; but the title being disputed by a subject of Denmark, the king of Denmark ordered a corps of troops to garrison the castle. When a detachment of Hanoverians arrived to take possession, a skirmish ensued, and the Danes were driven from the place. This event inflamed the resentment of the king of Denmark, who made preparations as if he intended to revenge the insult, but the affair was soon after compromised: a treaty was concluded with the king of Denmark, who agreed to hold in readiness 6 000 troops for the service of England, on receiving an annual subsidy of 250,000 rix dollars, and 150,000 more when they should be taken into British pay. As this treaty was concluded soon after the dispute concerning Steinhorst, and as the castle and lordship were at the same time ceded by Denmark to Hanover, the opposition naturally coupled these two events together, and when the treaty was announced to the House of Commons, suggested that the compromise had been made at the expence of this country, that Steinhorst was acquired by British money: their statement has been adopted as true, and consigned to the pages of history. This aspersion, however, is contradicted by the secret history of this treaty, which the minister at the time could not avow, and therefore only grounded his defence on the common topic of expediency.

"At the period now under consideration, a war between England and Spain was unavoidable; and France, foreseeing the probability of being drawn into hostilities, was secretly endeavouring to form alliances with several foreign powers, and to detach others from Great Britain. For this purpose she had secured Sweden, but failing in the attempt to gain Russia, turned her views to Denmark. The situation and circumstances of the sovereign, Christian the Sixth, gave hopes of success: he had involved himself in great expences from his love of building, and various projects, and was at this time encumbered with debts. Chavigni, the French minister at Copenhagen, offered the most advantageous terms if the king would engage in an alliance with France, and as the affair of Steinhorst had recently happened, endeavoured to inflame him against George the Second, and proposed a triple alliance with France and Sweden, by which Russia would be awed, England would have much difficulty in procuring naval stores from the Baltic, and the electorate of Hanover would be exposed to the united arms of the allied powers. To gain Christian, the French offered a subsidy of 400,000 rix dollars, for six, eight, or ten years, required no troops, but promised a powerful succour to Denmark, if attacked, and demanded no assistance in return if France was invaded. The king of Denmark frankly communicated these proposals to Titley, the English minister at Copenhagen; observed, that burthened as he was with debts, he required a subsidy; declared that he preferred the alliance of England, and that he would accept a smaller sum, and agree to less advantageous terms from England than were offered by France. The treaty was accordingly arranged and concluded; the insidious designs of France and Sweden were disconcerted, and the peace of the north secured." Coxe's Memoirs of sir R. Walpole.

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to the Treaty with Denmark, I believe the expediency, and even the necessity of concluding such a treaty, upon the present occasion, will be acknowledged by every lord that considers the remarkable turn of affairs, which has lately happened in Sweden, and the precarious state the tranquillity of this nation now stands in. It is a misfortune attending a free government in every country, to have their people divided into factions or parties; and this misfortune Sweden of course relapsed into, as soon as they had recovered and established their liberties, upon the demise of their late sovereign. That kingdom is now divided into two parties, one of which is for preserving the peace with all its neighbours, particularly Muscovy, and strictly observing those treaties that have been concluded since the accession of their present king; whereas the other, which is the most turbulent, and of course the most popular, is for taking the first opportunity for endeavouring to recover those provinces which were dismembered from that kingdom, by the misfortunes of the late reign, notwithstanding their having been yielded to the potentates now in possession of them, in the most solemn manner, and by the most express and explicit treaties of peace.

Of these two parties, my Lords, the first has always been for cultivating a good correspondence with this nation; because they may depend upon being supported by us, in case their country should be unjustly attacked by any ambitious neighbour: they have nothing but just and peaceable views; and in these, they stand in no need of any alliance but that of this kingdom. But the views of the other party, my Lords, are very different: their views are unjust, and in the prosecution of such, they can expect no encouragement or assistance from this nation. They can expect assistance from no power in Europe but France; and this makes them ready to second the views of that kingdom, and to enter into any alliance that may be proposed to them by the court of France. This party, by their intrigues among the members of the last Diet, and by the hopes they gave the people of recovering their lost provinces, which, however improbable, will always be popular, have got themselves established in the administration of public affairs; and, as soon as they had effected this, they immediately concluded an alliance with France, and began to make preparations both by sea and land, as if they had some grand project in view.

What the design of these preparations may be, or what design the French may have in giving so large a subsidy to Sweden, and in offering so considerable a subsidy to Denmark, are secrets which the world is not as yet let into; but, considering the precarious footing upon which the peace between Spain and us stands at present, and considering the uncertainty of the measures France may take, in case of a war between this nation and Spain, it would have been very imprudent in us, to have allowed France to engage both the northern crowns in an alliance, in which there would probably have been some secret articles, which might have been of great prejudice to this nation. I have already shewn, why it was impossible for us to prevent the now governing party in Sweden, from entering into the alliance proposed to them by France; therefore, the only thing we could do, was to prevent the accession of Denmark to that alliance; and there was no other method for doing this, but by concluding, with Denmark, such a treaty as his Majesty has now ordered to be laid before you. For this reason, I am convinced, there is no lord in this House, that will not readily approve of this treaty, and most cheerfully concur in enabling his Majesty to make good the engagements he has thereby entered into.

My Lords, the advantages that must accrue to this nation from the treaty now before us, appear upon the face of the treaty itself; but, when I tell your lordships that no alliance was ever more earnestly solicited, than the alliance of Denmark was by France, upon this occasion, these advantages will appear to be more considerable, and the necessity we were under of concluding this treaty will become manifest. The subsidy we are to pay to the crown of Denmark, is, it is true, a little extraordinary; but when we consider, that a much larger subsidy was offered by France, we must conclude, that nothing more evidently points out to us the wisdom of the king of Denmark, and his good inclinations towards this nation, than his rejecting upon this occasion the offers of France, and accepting from us a much smaller subsidy than was offered to him by that kingdom. I shall grant, it was more for the interest of Denmark to join in an alliance with this kingdom, than to join in an alliance with France; but when the interest of a court happens to be oppo-

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site to that of the country, it requires some address in those that apply to them, it requires wisdom in the court applied to, for prevailing upon them to prefer the latter. This was the case in our late negociations with Denmark: it was the interest of that court to accept of the larger subsidy offered by France; it was the interest of the country to accept of the lesser subsidy offered by Great Britain. This, we may suppose, was set in its true light, by those who were employed by his Majesty in that negociation; and his Danish majesty's natural good sense prevailed with him, as it ought and I hope always will, to prefer a future interest to a present advantage, and to sacrifice his own immediate interest to the happiness of his country, and the security of his posterity.

I hope your lordships will excuse my having said so much upon the first part of the Message now under your consideration, which is, indeed, of such a nature, that I cannot suggest to myself any objection that can be made against our complying with it; and as to the other part of the Message, it appears, in my way of thinking, as reasonable as the former. I have often heard those plausible arguments, that are commonly made use of against votes of credit and confidence. Perhaps they may be repeated upon this occasion; and, I shall allow, that such votes ought not to be passed but in cases of an extraordinary nature. I shall grant, it would be dangerous to intrude the custom of concluding every session of parliament with a Vote of Credit and Confidence to the king then upon the throne; but this is what was never contended for; and whatever may be done upon any extraordinary emergency, can be no precedent for doing the like, when no such emergency exists. Upon such occasions, therefore, we are to consider the situation of our affairs at that instant of time; in order, from thence, to determine, whether such a vote be then necessary or no. If we do this, I believe, every Lord that hears me must agree, that a vote of credit and confidence was never more necessary than it is at this present conjuncture. We have, it is true, a Convention with Spain; but that Convention is only a sort of preliminary: The principal articles in dispute between Spain and us, remain yet to be adjusted; and even those articles, which by this Convention were finally settled, remain still uncomplied with. The best way of securing a compliance, is to be in a condition to compel it; and the only method by which we can expect to have the other articles adjusted to our own liking, is to shew that we are ready to vindicate our rights by force of arms, in case the Spaniards should continue obstinate in refusing to acknowledge them by peaceable means.

The session, my Lords, is now drawing towards a conclusion. The parliament will probably be prorogued; the season of the year is now so far advanced, that it will even become necessary for his Majesty to prorogue it, before he can know what may be the result of the present counsels of Spain; and, if we should separate without enabling his Majesty to put the nation into a warlike posture, as soon as the exigency of our affairs may require, it will encourage the court of Spain, not only to refuse giving us satisfaction with regard to those disputes that remain as yet to be adjusted, but also to refuse performing those stipulations which they have expressly promised by that Convention, which has been ratified by both crowns. Thus, by neglecting to furnish his Majesty with those powers that are necessary for enabling him to engage in a war, we shall render a war unavoidable: by a groundless apprehension of running ourselves into a danger of a domestic nature, we shall run ourselves into a real foreign danger; and by refusing to empower his Majesty to put the nation to a small expence, which, by his being empowered to do so, may become unnecessary, and which we are sure his Majesty will not put us to unless it be necessary, we may subject the nation to an immense charge, which in its present circumstances, I am sorry to say, it is not well able to bear.

From these considerations, my Lords, I must be of opinion, that there is as much reason for our complying with the second part of this message, as with the first; and as I can apprehend no danger from our complying with both, I shall take the liberty to move your lordships to resolve, "That an humble Address be presented to his Majesty, to thank him for laying before this House, the Treaty lately concluded with the king of Denmark; and to assure his Majesty, that this House will not only concur in enabling him to make good the Engagements he has entered into by that Treaty; but also in enabling and supporting him to make such further Augmentation of his Forces, either by sea or land, as may become absolutely neces-

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sary; and in concerting such measures, as the exigency of affairs may require.*"

Lord *Carteret:*

My Lords; the noble duke has very properly divided his Majesty's message into two parts. It consists, indeed, of two parts, and they are of so different a nature, and so distinct from one another, that I am surprised at his Majesty's having been advised to join them together in one and the same message. They are so

* *From the Secker Manuscript.*

May 11. The Debate about enabling the King to make good the Treaty with Denmark, and to augment the Forces.

The Treaty was read, dated 14th March, 1739.

Newcastle. No sooner was the late turn taken in Sweden but particular marks of ill humour were shewn towards this nation. This turn probably hindered the Czarina from sending assistance to the Emperor. Endeavours were used to engage Denmark in the same measures. And if the King had not interposed, they might have been too far engaged. More advantageous terms were offered them from another quarter. We have a considerable trade in that part of the world, and had Denmark joined with Sweden they might have affected it much, or made it necessary to keep a great force in those seas. I hope this will be followed with more considerable alliances. But if we will have alliances we must take them *cum onere*. It is now said we have no allies: time was when it was said we had too many. A right medium should be observed. An augmentation may be necessary. A part of the Convention may be executed soon: a part may be still in danger. Be ready against that time. Nobody can see yet what may be requisite. Had the King made any particular demand it might have been too great, or have left the nation exposed. The method proposed now, was practised without inconvenience in 1734, and doth not differ from the usual general assurances.

Carteret. The Treaty with Denmark is right. France would give 3 times as much without demanding their troops: for France wants them not, but wants seamen, and Danish ones would enable them to insult us. All the Danish navigation depends on our allowing them to bring their timber into England themselves. Therefore they will always take our money rather than that of France. Yet there was great ability necessary in spiriting them up to take it, which was boldly done of Denmark. But though this is a right thing, it is but a little thing. If you have no hope of Prussia, you will not have a word to say in Germany: and he may be gained upon right and good grounds. The usual price for foot was 20 crowns. This is now raised to 30. Denmark hath 20,000 men in the continent and little islands; and 28,000 in Norway; therefore he need not raise men. With his Majesty's gracious demand we might have had a most gracious communication of the state of our affairs with Spain. Granting this demand will only entangle us more. Last year we say, we insisted on redress; but when Spain desired it we made a Convention. The makers of that Convention know not how to behave. We have driven a just cause into the appearance of an unjust one. If the Convention had been censured it had been better for a majority of the administration: If the money be not paid it is the utmost ignominy and contempt. The nation was never so entangled, and if this were the way of getting out, I would be for it. If the King would say, If any thing be wrong charge those that have done it, this would end all difficulties. Common decency added to court cunning hath been the ruin of all nations in the world. The purse is in our hands: if we give it out of them we are undone. I am not for putting a negative on this motion; perhaps the money may be paid on the 24th. Resume the House, and take the matter into consideration again on the 25th or 26th.

Hervey. If it was so bold in the Danes to take our money, it is reasonable they should ask the more. The Crown may raise money on extraordinary occasions without the Parliament, but it is greater respect to ask the opinion of Parliament. If the money be not paid, the Convention is not to blame. It proves the bargain was so good for us, they would not stand to it. It would not be proper for the king to say before hand, I believe Spain will not keep their treaty. The King's words are general, as they ought to be.

Bathurst. No circumstances can justify votes of this kind. The sum given in 1717 was never accounted for. In 1726 near two millions were spent, and it was found afterwards there was no need: but it was before the Parliament was dissolved. In 1734 the same thing was done again. That also was before a new Parliament. These are all the Votes of Credit that are upon your Journals, and on what occasions have they been of use? The Cortes of Spain trusted the King with the power of raising money but for one year, and were destroyed by it. Surely none of this money will be applied to pay the 95,000*l.* at least people will imagine it. This method hath been under only one administration: all from the same hand. And is it for such a conduct as the present that we are to break old rules? During a time of rebellion the King may raise forces without the Parliament; but not else.

Lonsdale. By law there can be no more forces raised in this kingdom than those which the act against mutiny hath appointed. And a Law cannot be overturned by a Resolution and vote of each House. If that can be done in

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distinct, that it is impossible to speak to them both together; and therefore I must consider them separately, as the noble duke has done before me.

With regard to the first part, my Lords, which relates to the treaty lately concluded with Denmark, if the message had been confined to that treaty alone, I am persuaded no objection would have been made, by any lord in this House, to our complying with what his Majesty desires; and, as I have often taken the liberty to

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the case of this Law, it may be done in the case of every other.

Cholmondeley. Votes of Credit are giving the Crown a controul over any money raised that year, that the Crown may do with it as they please. Votes of Confidence are very different. By specifying what you will give, foreign nations will see all you can do, and know your force.

Finlater. According to the argument of the lord who spoke last but one, in case of a war additional troops cannot be raised after the Mutiny Bill hath passed.

Gower. A vote of this kind is suspending the constitution.

Hardwicke. C. I congratulate the Duke on having half his motion approved. The language of the noble lord who spoke after him is proper for such as have been ministers, and which they will wish to receive when they are so again. In France and Spain they gave the Crown a power of taxing the people, which is not done here. No money can be raised but by authority of Parliament afterwards. Anciently when the Parliament granted Aids to the King, it was in a general way, without any appropriating Clauses, till some years after king William came. Before that, the King applied the money as he thought fit. Now it would be criminal to apply a shilling to any other purpose than is appointed, though in cases of necessity it would be excused. But on particular occasions there should be relaxations of this rigour: there were such in the late great war, and clauses of approximation are not safe things without them. Till the late King's reign the number of forces was never specified, and is specified now, not in any enacting clause, but in the recital of the resolution of Parliament, that such a number is as many as are necessary. The Resolution of both Houses with the concurrence of the Crown, is the consent of Parliament as required by the Petition of Rights. Besides, I am inclined to think this vote will be reduced into an act of Parliament before the end of the session. Spain's paying or not will not determine your conduct, if only Spain were in question, which perhaps it is not. There are much more material things than that payment to come after: and the more or less you are prepared, the more or less willing other powers will be to treat you as they should. After Spain hath paid it would not be proper to come to such a resolution: therefore do it now.

Lonsdale. It is not an answer to say, a law may be made still. This method may be wrong, though another that is right might be taken after it.

Argyle. My stock of wonder is at an end. I shall wonder at nothing unless the same measures that have almost brought us to ruin should set us up again. The hardship should not be put on this House of having a message from the King, and not being to pay it respect. Denmark hath a treaty with Russia, and could not treat with France without breaking that. Besides, Sweden was come in to France; therefore Denmark must come in to us. Denmark will have the help of Prussia against Sweden, and was glad of ours. It is necessary to be prepared: but not in a manner that shocks the constitution. All countries have been enslaved by the necessity of trusting extraordinary powers. Necessities are first created and then pleaded. Let a reasonable number of troops and ships be proposed, and more afterwards if wanted. The administration must have made some plan in these four months; and the nation will not sink if this vote doth not pass, which is proposed more to make such sort of powers common than with intent of using it. What good hath it done when such powers have been asked? We did nothing in 1734. If you will come into no other method, I will not be against this. We might have prepared the day after the Convention. For Spain will not give us satisfaction. But if we were sure that France would support Spain, let us not be slaves; let Providence decide the event.

Chesterfield. The act by which liberty was surrendered in Denmark, differed from this only in duration. This is putting a confidence in ministers whom you have no reason to have confidence in, either as to war or negociation. As to the Convention, since your lordships have approved it, I have the same opinion of it that every one of your lordships have: Power is never to be given where it is asked, and no necessity justifies it, as it cannot when the parliament is sitting. Why not keep it sitting? Why may it not meet again after 4 or 5 months? The sum of 250,000*l.* was given and an account refused afterwards, and so it was in following cases. Let the crown exert its power: if it be rightly exerted, the approbation of parliament needs not be feared. Therefore these votes are made where a subsequent approbation is despaired of. The states of France and Spain gave the King beforehand a power of taxing the people: and we promise to tax the people afterwards. This is undoing what was done at the Revolution. Any thing may be comprehended under the term of concerting alliances: and this money may be applied to very bad purposes. The Civil List is said to be in debt. This may be called an exi-

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find fault with our late measures, I am glad to have this opportunity of giving my approbation to something that has been done by those now at the head of our administration. In our present circumstances, my Lords, and considering the present unlucky posture of affairs in Europe, to which we have, by our late measures, not a little contributed, the concluding of this treaty was absolutely necessary for us, in order to prevent Denmark's entering into any engagements that might be of dangerous consequence to the interest of this nation in particular, and the tranquillity of Europe in general. Therefore, however expensive this treaty may be to us, yet, in the main, I must think it was a wise, a right, and a necessary measure. But, at the same time, I cannot help observing, what can escape the observation of no man, who compares this treaty with those that have been concluded upon former occasions between the two crowns, that a nation, like a private man, the lower it sinks in its credit, the dearer it must pay for every favour it is obliged to sue for.

This observation occurs the more readily to me, my Lords, because I was once concerned in negociating a treaty of the same kind with the crown of Denmark. When I had the honour to be employed by his late Majesty in his negociations with the northern crowns, a treaty was concluded between him and the king of Denmark, of the same nature with this now before us: but by that treaty, we paid but 70 crowns for each horseman his Danish majesty was to keep in readiness for our service; whereas, by this treaty, we are to pay 80 crowns for every such horseman; which difference, though it may appear inconsiderable when considered with respect to each single man, yet upon 1,000 horsemen, the number stipulated by this treaty, it amounts to a very large sum; and it is the more considerable, because, by the treaty, we are obliged to pay immediately one moiety of this 80 crowns for each horseman, and 30 crowns for each foot-soldier, whether we have occasion for these troops or no. In this light, the difference of 10 crowns upon each horseman, will appear to be of some consequence, especially if we consider the present unfortunate circumstances of this nation, and the great charge we must be at, if a war should ensue between us and Spain, which I have, indeed, long thought inevitable, and I have now more reason to think so than ever I had before.

Besides this disadvantage, my Lords, there are several others, which every lord may see, by comparing the two treaties; but what is still worse, this treaty can be of no advantage to us, except that of preventing Denmark's engaging against us, unless we can engage in our interest several other powers upon the continent, besides Denmark. We can, by this treaty, make no use of the Danish troops, in any expedition we may think fit to undertake against Spain; because it is expressly provided, by the sixth article of this treaty, That this corps of Danish troops shall not be made use of either in Italy, or upon the fleet, nor is it to be transported, in whole or in part, beyond sea, after it is come out of the territories of Denmark, except for the defence of the kingdoms of Great Britain and Ireland. Nay, if France should join with Spain against us, we could make no use of this body of Danish troops, either against Spain or France, unless we should have occasion to form an army in Germany or Flanders against France; and this we neither can, nor shall have the least occasion for, unless we can form a confederacy amongst the princes and states, who have dominions in that part of the world; which we have, as yet, I believe, no great hopes of being able to accomplish.

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gency, and be supplied with this money. I tremble to think of this possibility. A vote of credit enables ministers to conceal the true state of affairs from the parliament and from the king.

Ilay. Some lords who have spoke in this debate said a former day was the last they should speak in this House. Augmentation of forces in time of war is lawful. And it is more necessary to augment now than it might be in case of actual war, e. g. if war were declared against Lucca. I should be sorry to see Irish troops on board a squadron of our ships [or perhaps of Spanish ships] I wish our country were in less danger of being attacked than it is. Suppose there had never been a Mutiny act, would not a resolution of both Houses have been the consent of parliament? now doth the Mutiny act take this away.

Aylesford. The King hath power to raise men when there is a rebellion or immediate danger of invasion, and this is sufficient. I move that the House be resumed.

Question on lord Aylesford's Motion.

N. C. 71, of which I believe bishops of Gloucester and Oxford.

C. 32.

After which the Duke of Newcastle's Motion passed without a division.

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This treaty with Denmark, my Lords, is but a preparatory step towards accomplishing so great and necessary a design. Several other steps must be made, and particularly, there is another power upon the continent, whom I may likewise call a northern power, whose alliance we ought to seek, upon the present occasion, as much as that of Denmark. When I say so, I believe every lord that hears me will suppose I mean the king of Prussia. He is a powerful prince: he is a Protestant prince, my Lords; and one of the chief supports of the Protestant cause in Germany. It is hardly possible, that ever any natural difference can arise between this nation and that crown; therefore we ought always to cultivate a good correspondence with him: we ought even to promote his interest, and support his pretensions, as far as may be consistent with our own safety. While we do this, we may depend upon a grateful return; because it will always be his interest to be grateful, which, amongst princes, is the only gratitude that can with assurance be depended on. By our religion, we are embarked upon the same bottom with the king of Prussia; and as there can be no jarring of interests between the two crowns, we ought to support one another in all just pretensions, we ought to assist one another against every unjust attack. Therefore, I wish the second part of this Message had been to acquaint us of a new alliance concluded with the king of Prussia, and to desire, that his Majesty might be enabled to perform the engagements thereby entered into; which, I am sure, would have been a second part more agreeable to the first, than that which now stands second in this message.

The danger of Sweden's disturbing the tranquillity of the north, by attacking Muscovy, was not our only motive for concluding this treaty with Denmark. If it had, I am sure, it would have been ridiculous in us to put ourselves to such an expence. We might have trusted to Muscovy for defending itself; and Denmark was not only by treaty, but in interest, obliged to assist Muscovy, in case it had been attacked by Sweden; therefore, it would have been ridiculous in us to engage Denmark by a large subsidy, to do what was necessary for their own safety. But this, my Lords, was far from being our only motive: it was our own safety that made it necessary for us to conclude this treaty: it was to prevent the fleets of Denmark and Sweden from being joined with that of France. Such a conjunction we had, we have still great reason to guard against on our own account, and without regard to the tranquillity of the north; because, in case of a war between us and Spain, we do not know what part France may take in the war: we are pretty certain, I believe, it will take no part with us; and, if the French should join with the Spaniards against us, it would be of the most dangerous consequence, to have the navy of France increased and supported by the ships and seamen of Denmark as well as Sweden.

This, my Lords, is what makes me in general approve of the treaty now laid before us. If our credit had been better, we might probably have obtained it upon more reasonable terms, and at a less expence; for though France offered perhaps a larger subsidy, yet the terms were far from being so advantageous for the king or country of Denmark; it was not possible they should be so; because, in consideration of the subsidy offered by the court of France, that court would certainly have insisted upon a number of seamen and ships of war from Denmark, as soon as they might have occasion for them. They stood in no need of any of the land forces of Denmark; they stood in great need of their seamen and ships of war; therefore, they would certainly have stipulated for a number of the latter, as a return for the subsidy they were to pay. This, the king of Denmark could not furnish, or keep in readiness, without putting himself to a very extraordinary and a new expence. Whereas, we desired only a number of land forces, which the king of Denmark can furnish, without putting himself to any new expence, because he keeps in constant pay so great a number of regular troops, that he can furnish us with the 6,000 stipulated by this treaty, without adding one man to the number he has now in his pay.

With regard, therefore, to the court of Denmark, it was their interest to accept of the lesser subsidy from us, rather than the larger subsidy from France; and, with regard to the country, I am sure it was more for the interest of the people of Denmark to send away 6,000 of their regular troops, than to send away 6,000 of their seamen. The latter they could not spare without distressing their trade; but, as to their regular troops, it is for the interest of the people of Denmark, it is the interest of every country where such troops are

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kept up, to have them quartered any where, rather than at home. To this, I must add, my Lords, that the terms offered, and the engagements desired by France, could not be but inconsistent with those treaties which are now subsisting between Muscovy and Denmark; and, I believe, every man in Denmark saw, that no subsidy that was, or could be offered by France, would be equal to the prejudice the crown and country of Denmark might sustain, by the forfeiture of its alliance with the Russian empire.

But, my Lords, the forfeiture of the friendship and confidence of the court of Russia, was not the only prejudice the crown and kingdom of Denmark would have suffered, by engaging in an alliance with France upon this occasion. Such an alliance would have been a breach of that ancient friendship, which has so long subsisted between Denmark and this kingdom; and this might have been in many respects of fatal consequence to Denmark. Their chief nursery for seamen depends upon their trade with this kingdom: it depends upon their being allowed to import into this kingdom, their timber and all sorts of naval stores, in their own shipping, which is an advantage we may take from them, whenever we have a mind; and, if we should take this advantage from them, their alliance would soon come to be despised by France; because it could be of little or no service to that kingdom. Nay, without a considerable number of seamen, and a large squadron of men of war, they would not be able to keep a communication, and a mutual dependence between the several parts of their own dominions: their king would then be obliged to depend upon France, for the preservation of his crown; and the certain consequence of this would be, an absolute subjection to the king of France; which is a danger they have no reason to apprehend from the king of Great Britain; because, by the nature of our government, our king must consult the happiness of his people, more than his own ambition: and it is inconsistent with our happiness to attempt to make conquests upon any part of the continent of Europe.

Thus it must appear, my Lords, that though this treaty with the Danes be a measure which in our present circumstances I highly approve, yet, in our having brought about such a treaty, we have no great cause to boast our wisdom in politics, or our skill in negociation: it was what common sense dictated to us, and the circumstances of the two nations rendered extremely convenient, if not absolutely necessary for them. I wish we had allowed ourselves to be as much governed by common sense in all our former treaties and negociations: if we had never deviated from the dictates of common sense, in order, I believe, to amaze the world with the profoundness of our politics, neither the circumstances of this nation, nor the circumstances of Europe, would have been in the untoward posture in which they are at present.

But now, my Lords, with regard to the second part of this Message; I am, indeed, not a little surprized, how it came to be tacked to the first. As all messages are, in this House, supposed to be messages from the minister, I may say, without giving any just offence, that the two parts of this message seem to have been designedly tacked together, in order to make the first part serve as an alluring vehicle, for enticing us to swallow down the bitter pill contained in the second. A general and unlimited vote of credit and confidence, is a thing of a most dangerous nature. Such a demand, our ancestors would have been amazed at, and would certainly have rejected with scorn. The practice is but of a modern date in this kingdom. It was never heard of before the Revolution; and never became frequent, till this nation was blessed with our present wise administration. Since that happy period began, I shall grant, that such messages have been frequent, and always punctually complied with, notwithstanding our having been in a continual course of peace, though I cannot say, tranquillity, during the whole time. What the reasons were for making such demands, or what the reasons were for complying so punctually with them, I shall not now enquire; but, I must think, that such demands, and such compliances, are rather an omen of our bad conduct in time to come, than a demonstration of our good conduct in time past.

Whatever we may think, my Lords, here at home, I have good reason to believe, that the frequency of such demands, and the ready compliance they have all met with, renders our constitution the common jest of every man abroad. Our pretences to liberty will, I fear, in a short time, become as much the ridicule of foreigners, as our late conduct has already rendered our pretences to the holding of the balance of power in Europe. I was

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confirmed in this opinion by a question lately put to me by a French nobleman: He was a man of good sense, and yet, he one day seriously asked me, what difference there was between the parliament of England, and the parliaments they have in France. I readily answered, and I hope I had some ground for saying, that in France, the king makes their laws or edicts, and their parliaments must comply with whatever the king desires; but in England, our laws are made by king and parliament, and our parliaments may refuse to comply with what the king desires. To which, he as readily replied, In your late history, we read of several extraordinary messages or demands sent by your king to his parliament, no one of which was ever refused, and pray, where is the difference between an edict made by the king, and an edict made by king, and parliament, if the parliament never refuses what the king is pleased to demand: for, our parliaments claim the privilege of refusing as well as yours; and, if a trial were to be made, such a refusal might, perhaps, be found as insignificant in England, as it now appears to be in France.

This, I am apt to believe, my Lords, is the way of thinking in other countries, as well as France; and, if a general vote of credit and confidence should once become a sort of customary compliment from the parliament to the crown, at the end of every session, or as often as our ministers may think fit to desire it, this may become the way of thinking at home as well as abroad. If this should ever come to be the case, our parliament will of course become despicable in the eyes of most of our own people; and, when the form of an act of parliament begins to be contemned, a proclamation may easily and safely be substituted in its stead. It would, indeed, be happy for the nation, it were so; for when a parliament ceases to be a check upon ministers, it becomes an useless and unnecessary burden upon the people. The representatives of the people in parliament must always be paid, some way or other, by the people: if their wages are not paid openly and fairly by their respective constituents, as they were formerly, a majority of them may, in future times, be always ready to accept of wages from the administration, which must, at last, come out of the pockets of the people, and will fall with a much greater weight upon them, at the same time that it renders their representatives of no use to them. There is no way of preventing this, but by putting it out of the power of ministers to pay wages, either to the electors or elected; and this can be no way done, but by strictly confining public grants to public services, according to the estimates previously delivered in to parliament.

But suppose, my Lords, our constitution could be no way endangered by a compliance with this extraordinary demand, I do not think it is in our power to comply with every article of it. To enable his Majesty to augment his forces by land, is what, I think, we cannot do, by a vote of this House. We have already, by the mutiny bill, limited the number of land forces, for the service of this ensuing year, to 17,704 men. By that bill, which is already passed into a law, we say that the whole number of men for guards and garrisons in Great Britain, to be kept up for the ensuing year, shall be 17,704 men; and shall we pretend, by a vote of this House, to enable his Majesty to keep up a greater number? Would not this be repealing an act of parliament by a vote of this House? Will any lord pretend to say we have such a power? By the Mutiny Bill, my Lords, a certain limited number of men are divested of the privileges they enjoy as British subjects, and made liable to martial law: Can we add to this number by a vote? Can we, by such a method, divest any one single man in the kingdom of any privilege he enjoys as a subject of Great Britain? Such a pretence, my Lords, may be of the most dangerous consequence: if we once begin to assume such a power, I shall expect, in a little time, to hear it insisted on, that the Habeas Corpus act, or Magna Charta itself, may be suspended by a vote of this House; and as such a vote may be obtained by surprise, and the parliament immediately dissolved or prorogued, we may judge what a precarious state the liberties of this nation would be in, should the least pretence be given for introducing such a maxim.

Therefore, my Lords, however fond we may be of complying with the first part of this message, I think it is evident, that we neither can nor ought to comply with the second. Let us but consider the circumstances we are in with regard to Spain, and we must think it a little odd, that such a message should have been sent to us at such a time. In less than a fortnight we shall be able to determine positively, whe-

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ther we are to have peace or war. If we are to have peace, there was no occasion for sending such a message, there can be no necessity for our complying with it: unless we have a mind to make a breach in our constitution, out of mere compliment to the minister: and if we are to have war, we ought to provide for the prosecution of that war, in a regular and parliamentary method. The 24th of this month is the last day Spain has for paying the 95,000*l.* stipulated by the late Convention. If they fail of performance, we must go to war: It would be dishonourable to the last degree, to sue for a performance of that article, by any other means than the mouth of our cannon. But, if they pay that sum of money, on or before that day, though it be but a small recompence for the damages we have sustained, yet I shall think it a certain omen of peace, because I shall look upon it as a testimony of their having a real inclination to do us justice. For this reason, I think, the only proper method we can take upon this occasion, is to resume the House, and adjourn the consideration of his Majesty's message, to the 25th; for, if it should then appear, that we must go to war, I am sure, no lord in this House can be more zealous than I shall be, for enabling his Majesty to prosecute the war, in the most vigorous and effectual manner.

The *Lord Chancellor*:

My Lords; as most of the arguments that have been urged against our complying with this message, have been chiefly directed against that part of it, by which his Majesty hopes to be enabled and supported by his parliament, in making such further augmentation of his forces, either by sea or land, as may become absolutely necessary, and in concerting such measures, as the exigency of affairs may require; I shall confine what I have to say upon the subject, to that part of the message; for I cannot think the noble lord who proposed resuming the House, was serious when he made that proposition. I cannot think, he really intended we should defer a moment giving his Majesty the utmost satisfaction, as to that part of the message which relates to the treaty with Denmark. The noble lord himself gave one of the best reasons that can be thought of, for an immediate compliance with that part of the Message. He told us, that in our present circumstances, it was necessary for us to bring several other powers, besides that of Denmark, into an alliance with us. Whether this be so or not, I shall not pretend to determine; but if it is, I am sure, we ought not to delay, one moment, our coming to a Resolution to approve of this treaty with Denmark, and to declare that we will enable his Majesty to make good the engagements he has thereby entered into. What a damp would it throw upon his Majesty's negociations, for concluding treaties of alliance with the other powers of Europe, if they should hear, that the parliament had delayed approving of the very first treaty of that kind, which his Majesty has thought fit to make upon the present occasion. This would of course put a stop to all his Majesty's negociations at foreign courts, and at some of them, it might be the occasion of an absolute disappointment; because it might, it probably would, make some of them immediately resolve to accept of the terms offered by our enemies, who are now endeavouring to out-bid us at every court in Europe.

Therefore, my Lords, I hope we shall immediately agree to what the noble duke has been pleased to propose, with regard to the first part of this message, whatever we may do as to that which regards the second. But, even as to the second, I cannot think there is the least weight in any of the objections that have been made against our complying with it. Our constitution can be no way endangered by the parliament's giving the crown their authority, to do what it may do without any such authority. By the very nature of our constitution, the crown has, during the recess of parliament, a sort of dictatorial power to take care 'ne quid detrimenti 'respublica capiat;' and, in consequence of this power, his Majesty may augment his forces, both by sea and land, if it should become absolutely necessary, and he may concert such measures as any sudden exigency may require, without a previous authority from parliament for that purpose. When it can be foreseen, that such a necessity may probably happen, or that such an exigency may probably arise, the authority of parliament ought to be previously asked; and, when that probability appears to be in any high degree, either from the circumstances of affairs at the time, or from what his Majesty then communicates, the parliament ought to grant the authority demanded. Such a message, from the crown, or the parliament's complying with that message, is so far from

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being inconsistent with, that it is highly agreeable to our constitution; because, the sending of such a message is a token of that regard which the crown ought always to have for the authority of parliament, and a compliance with it, is a testimony of that concern which the parliament ought always to have for the public safety.

I am not at all surprised, my Lords, that no such message was ever heard of before the Revolution. Before that happy settlement of our constitution, most of our kings shewed as little regard to our parliaments as they possibly could. They never asked either the advice or authority of parliament, but when it was absolutely necessary for them to do so. Nay, they were so fond of prerogative, and of acting by that alone, that they attempted too many things by virtue of prerogative, which ought not to have been done without the authority of parliament. But as king William never made use of the prerogative of the crown, but in cases in which only it ought to have been made use of, that is, when the public safety made it necessary, he applied by message for the authority of parliament, as often as he had occasion: queen Anne did the same: his late majesty could not fail of following so good an example; and if such messages have been more frequent in this reign than in any former, it must have proceeded from the many changes that have lately happened in the affairs of Europe, and the extraordinary regard his present Majesty has for the privileges and authority of parliament. It could proceed from no sinister design; because no bad use has been made of the ready compliance his Majesty has met with from his parliament upon every such occasion. It cannot be so much as insinuated, that, in consequence of these compliances, his Majesty has put the nation to any unnecessary expence, or that the expences the nation has been put to, in consequence of the confidence reposed from time to time in his Majesty, have not been regularly and strictly accounted for; and therefore, during his present Majesty's reign at least, I should think, that our past experience ought to be sufficient for removing all future jealousy.

But suppose, my Lords, that our former kings had all endeavoured as much to shew a regard for the authority of parliament, as some of them did endeavour to shew a contempt of it, yet, before the Revolution, there was no occasion for any such message, because the custom of appropriating the public grants to their respective services did not till then take place. Before that time, the public grants were made without any appropriation; so that the king, or his servants by his authority, could apply the money to such services as they thought most pressing; and, if any sudden emergency happened, which required an extraordinary and immediate expence, the services that were not so pressing, were put off, or left unsupplied, till the parliament should meet, in order to make a new provision for them, and the money designed for them was applied to those unforeseen exigencies which demanded an immediate supply. Whereas, since the custom prevailed, of appropriating all parliamentary grants to their respective services, no minister can, even by his Majesty's authority, apply to one service, however urgent, what has been appropriated by parliament to another; and therefore, when there is a probability, that some services may accidentally arise, during the recess of parliament, that could not be foreseen, or that could not be regularly provided for by parliament, it becomes necessary to furnish his Majesty with such a credit and confidence, as is demanded by the second part of the message, now under our consideration.

As this credit and confidence, my Lords, can last no longer than till next session of parliament, and as every following session must necessarily begin, within seven or eight months after the expiration of the preceding, it is impossible to suppose, that any such vote of credit and confidence can ever be of dangerous consequence to our constitution; because, in so short a time, it will always be impossible to raise and discipline such a number of forces, or to levy such sums of money, as would be necessary for overturning the liberties of this nation; especially, if we consider, that, by virtue of such a vote of credit and confidence, his Majesty can impose no taxes, nor force any loans, nor can any man thereby be compelled to list in his Majesty's land service. If the administration should attempt to levy forces, or borrow money, without any apparent necessity, the people would immediately become jealous of their having designs against the liberties of their country; and, in that case, no man would lend money to the government, or list in the government's service

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even the officers of the army themselves, would be apt to declare against such new levies, and if they did not refuse to obey, they would certainly be very negligent in fulfilling the orders issued for that purpose; which would of course render the designs of the administration abortive, and next session of parliament would certainly punish them for the attempt.

Thus it must appear, my Lords, that our constitution can be brought into no danger, by our complying with what is proposed; and as to our having a power to comply with every thing demanded by this message, I wonder to hear it made the least doubt of. We have not, my Lords, by the Mutiny Bill, confined or limited the number of troops to be kept up for the ensuing year. We had no occasion to do so; because, the keeping up of any number of troops within this kingdom in time of peace, without consent of parliament, is by the nature of our constitution illegal, and is expressly declared to be so, not only by the Claim of Right, but by the preamble to that very Bill itself. For this reason, a certain number of troops is mentioned in the preamble to that Bill, in order that we may give our consent to the keeping up of that number; but none of the enacting clauses relate to that number, or any other number. They relate to all the troops that shall be kept up; and if, by any future vote, we give our consent to the keeping up of a greater number than is mentioned in the preamble of that Bill, the enacting clauses relate to, and comprehend the additional number as well as the number mentioned in the preamble. Therefore, the resolution we may come to upon this occasion, can no way be understood as a repeal, or as an alteration of the Mutiny Bill: it can be considered only as a signification of the consent of parliament, to the keeping up of a greater number of troops than were thought necessary when the Mutiny Bill was passed; and surely the consent of parliament may be signified by a vote or resolution, in pursuance of a message from his Majesty, as well as by the preamble to a Bill.

We do not, my Lords, by the Resolution now proposed, subject any man in the kingdom to martial law, nor do we divest any man in the kingdom of the privileges he enjoys, or ought to enjoy, as a subject of Great Britain. It is already done to our hands, by the Mutiny Bill, which is now passed into a law. By that Bill, every man that shall voluntarily list himself in his Majesty's land service, without any restriction as to the number of men so to be listed, is made liable to martial law; and, by the Resolution now proposed, we only give our consent to his Majesty's taking a greater number into that service, than we consented to by the preamble of that Bill. There is nothing therefore in what is now proposed, that can furnish the least pretence for laying it down as a maxim, that the Habeas Corpus act, or any other act, can be suspended by a vote of both, or either House of Parliament.

From what I have said, my Lords, I hope it will appear that there is no weight in any of the objections made to our complying with this Message. But, in my opinion, our refusing, or even delaying to comply, may, in the present ticklish conjuncture of affairs, be attended with the most fatal consequences. Spain has already long depended upon gaining some advantage from our intestine divisions. It is to this only, we can with justice impute the obstinacy they have shewn in refusing to do us justice. They have, at last, promised to make us some satisfaction for past injuries; and the term allowed them for performing that promise, is now near expired; but if the 95,000*l.* which they are to pay to us on that account, were now in London, and ready to be paid, I do not know but our delaying to give his Majesty the satisfaction of complying with his most gracious message, would prevent that sum being paid within the term limited. The agents for Spain would immediately begin to expect a breach between his Majesty and his parliament, which would of course encourage them to delay making that stipulated payment, till they had new instructions from Spain; and thus, by delaying to agree with his Majesty's message, we should render a war unavoidable, at the same time that we rendered it impossible for his Majesty to provide for it, either by alliances abroad, or armaments at home. For these reasons, I shall most heartily join with the noble duke in the motion he has made, and I hope we shall have the concurrence of a majority of this House.

The Duke of *Argyle*:

My Lords; it is no new thing to see the demands and the projects of ministers ushered into this House under the name of our sovereign; when any extraordinary demand is to be made, or when any dangerous powers are to be asked for by our

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ministers, it has always been their custom to screen themselves under the sacred name of majesty; and when such demands are opposed by those who have a true regard for their sovereign, but no very great regard, perhaps, for his ministers, the advocates for those demands are sure to follow the example that has been set them, by introducing his Majesty's name into every part of the debate. Our ministers ask a power to put the nation to what expence they please, and as an argument for our complying with this demand, we are told, his Majesty never put the nation to any unnecessary expence: our ministers ask such powers as will of course, if they are frequently granted, render parliaments of no use to the people, whatever they may be to an administration; and to induce us to render ourselves useless, we are told, that this modest demand proceeds from the great regard his Majesty has for the authority of parliament.

This, my Lords, is a way of arguing, that must lay your lordships under great difficulties, and is, I am sure, no sign of any true regard for the King, whose name ought never to be introduced into any debate; therefore I wish that all such messages were sent hither in the name of those that advise them, whom I shall always look on as the persons that really send them. It is upon me, particularly, a great hardship, to see any thing sent hither in his Majesty's name, which I do not approve of; for, as the King is not only my sovereign, but my master, it is with the utmost reluctance I can say any thing against a proposition that appears in his name. But, my Lords, I know his Majesty so well, I am so well assured of the regard he has for our constitution, that I cannot look upon this anti-constitutional message as coming from him. I must consider it as a message from some of his ministers, and I shall treat it accordingly.

It is a message, my Lords, of a most dangerous nature; for if such messages should be frequently sent, and frequently complied with, it will end in a total overthrow of our constitution. The business of parliament is to prevent its being possible to run the nation into any needless expence; for after a needless expence is incurred, we may punish the advisers, but there is no recalling the expence. The guilty head of a wicked or weak minister is but a poor atonement to the nation; and his fortune, however immense, may prove but a very insufficient recompence for the damage the nation may suffer, and the charge it may be put to, by one ridiculous or imprudent measure. For this reason the parliament ought to examine and judge of the services, before they think of granting funds for supplying those services; and it is for this reason, that particular estimates of the respective services necessary for the ensuing year, are always laid before parliament. From those estimates we can judge, not only of the services intended, but also of the sums necessary for supplying those services; and, if we disapprove of the services, we may, and ought, to refuse granting any funds for their supply; or, if we think the sums demanded too large, we may, and ought to grant no more than what shall appear to be absolutely necessary for the supply of those services we approve of. But by granting such a vote of credit and confidence as is demanded by this message, we can neither judge of the measures intended, nor of the sums necessary for the execution of those measures; whereby we render ourselves quite useless, as to that of being able to prevent the nation's being put to any unnecessary expence: therefore, if such a vote as this now demanded, should once come to be an usual, methodical conclusion to each session of parliament, I shall then begin to think parliaments of no use to, I shall think them a most unnecessary burden upon the people.

We are told, my Lords, that an account shall be laid before next session, of all the extraordinary expences the nation may be put to, by virtue of the credit and confidence now demanded. What signifies this to the nation? will this make good the expence that may be unnecessarily incurred? will this atone for the damage the nation may sustain by a rash or ridiculous project? such an after-account can, in my opinion, never be of the least signification. I shall never think, that a parliament that will grant such a credit and confidence, will ever find fault with any expence the nation may be put to in pursuance of that credit and confidence, or that they will find fault with any article in the account. In such a parliament, I shall always expect to see panegyrical votes of approbation passed in every following session, with regard to those measures that were undertaken, and those expences that were incurred, in pursuance of a vote of unlimited credit and confidence passed in the preceding. And if a new parliament should intervene, there is nothing can be of more

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service to a minister, for enabling him to get a House of Commons to his mind, than his being appointed the sole and whole executor of the expiring parliament. Therefore, if a check be not put to the sending of such messages as this, now under our consideration, I shall soon expect to see every session open with a general approbation of all the minister has done in time past, and conclude with a general power to do whatever he pleases in time to come.

My Lords, let us but examine the arguments made use of upon this occasion, and we shall find, that most of them may, with equal weight, be made use of at the end of every session. We are told, that during the recess of parliament, his Majesty has a sort of dictatorial power, which would enable him to do all that is desired by this message, and that therefore our constitution can never be in any danger, by our giving him an authority to do what he might do without any such previous authority. Is not this, my Lords, an argument that may be made use of with equal weight at the end of every session? can we suppose a time when it may be positively affirmed, that no sudden emergency can arise during the recess? we can now, or at least we may in a few days, as certainly foresee what will happen during the recess, as we can ever do at the end of any session. Therefore, the timing of this message deserves our particular notice. It seems calculated for establishing it as a custom, that at the end of every session, our parliament ought to invest our ministers with an absolute power, and an unlimited credit. I shall grant, that in case of a very sudden and very imminent danger, the crown has a sort of dictatorial power; but I will say, that in such a case, the parliament ought to be assembled as soon as possible. I will say, that no good man, no wise minister, would advise the crown to make use of that power for one week longer than necessity required; so that the exercise of it can never, by our constitution, last for above five or six weeks; whereas, by granting such a parliamentary authority as is now demanded, we give our ministers an authority, or at least a pretence, for exercising that dictatorial power for seven or eight months. In the former case, the exercise of it can never be of any dangerous consequence, because our people would not submit to it, if exercised without an apparent necessity, or without summoning the parliament to assemble as soon as possible; and in no short a time no dangerous use can be made of it. But when the exercise of this power is founded upon a previous authority from parliament, the people will submit to it without enquiry; and, in so long a time, such an use may be made of it, as may render it perpetual; for our ministers, in such a case, would never allow the parliament to assemble, unless they were sure of having such a parliament as would begin the session, by approving of the use they had made of their power, and conclude the session with giving them a renewal of their term.

If we are to have peace, if there is the least probability that Spain will comply, even with that nominal satisfaction we have submitted to accept of, there can be no reason for our complying with this message, there could be no reason for sending it, beside that I have mentioned. But, my Lords, I am far from thinking that we shall have peace. I believe we must at last go to war. The Spaniards will do nothing, as long as they have such a contemptible opinion of us. We must beat them into a better, I hope a righter opinion of us, before we can expect they will give us either satisfaction or security. If this be the case, why do not our ministers tell us so? the King, I know, is for laying every thing before us. The ministers ought: it is their interest to do so. It is the interest, at least of the majority of them, to lay every thing fairly and openly before parliament. We could then provide for war in a regular, parliamentary method. But this, we are told, would be divulging the secrets of the government: it would be declaring war against Spain, before we have provided for carrying it on. What! are we then to steal a war upon the Spaniards? are we to steal a satisfaction from that contemptible, though insolent nation?

My Lords, we have no occasion to do so; and I am sure we ought not to make an encroachment upon our constitution for such a needless, such an insignificant purpose. If the war be prosecuted in a proper and vigorous manner, we now have, or may have, before they can prepare for their defence, a sufficient force both at land and sea; a force that may fully enable us, not only to defend ourselves, but to revenge, in the most ample manner, the insults they have put upon the nation, and the depredations they have committed upon our merchants. This, I say, we have a power to do, but

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God knows what may be done, if our warlike measures be conducted with the same sort of spirit, that our peaceable measures have been for so many years past. I have, my Lords, lived a long while in the world: I have lived so long as to wonder at nothing.—I beg pardon, there is still one thing I should wonder at: I should wonder; if those who have brought us into such a deplorable and contemptible state, should ever be able to bring us out of it, or to recover either our character or their own.

For God's sake, my Lords, what are we afraid of? Are we afraid of Spain? That cannot be. Are we afraid lest Spain should be supported by France? What then? Must we do nothing but what France gives us leave to do? Must we make a sacrifice of our trade, our navigation, our honour, because France commands it, and threatens us with correction, if we do not obey. My Lords, we had better submit to become a province to France, because they would then think themselves obliged to defend us. But this I shall never submit to, I shall chuse to die with my sword in hand, rather than meanly live to see my country made a French province; and if this should ever come to be the question, I hope I should still find in this kingdom many companions; I am sure every true Briton would share the same fate with me. With such men, to live or not to live, can never be the question of most importance. To live freely, or die bravely, has been the resolution of our ancestors in all ages past; I hope it is the resolution of the present generation, I hope it will be the resolution of our posterity in all ages to come.

With regard to Spain, my Lords, if they do not give us immediate satisfaction, we are under an absolute necessity of declaring war, let who will take their part. The principal affair in dispute between them and us, is of such a nature, that even France will not, I believe, take their part; and I believe it, because it is neither her interest to do so, nor is she prepared for it. It is not the interest of France to establish those claims which the Spaniards have lately set up against us; because they may one day be made use of against France as well as against us. And suppose the French should mistake their interest, which they seldom do, what can they do against us? They can make use of nothing but a naval force against us, which they are at present unprovided with; and in case of an open war, we may take care they never shall. The French court may encourage the claims of Spain, whilst they are made to operate only against this nation; because every thing that is a discouragement to our trade, is an encouragement to that of France. They may even bully and hector, in order to make us submit as patiently to the claims of Spain for twenty years to come, as we have done for twenty years past; because, by such a submission, the trade of this kingdom would be very much lessened, and their trade as much advanced; but if we once begin to reassume our ancient character, if we once resolve to vindicate the rights of our country, notwithstanding the unfortunate situation the affairs of Europe are by some late measures reduced to, yet, I believe, France will be extremely cautious of engaging in a war, for supporting Spain in claims which all the world must see to be unjust. Against this nation, their numerous land armies signify nothing, without a superior naval force, and that, they know, they neither have, nor could provide themselves with in time of war. The certain consequence of a war with this nation, would be a full stop to their trade, and, if well conducted on our part, it might be attended with the ruin of most of their settlements in the East and West Indies; which is a risk we can hardly suppose the French will run, for the sake of supporting Spain, in claims that may hereafter be made to operate against themselves. Besides this danger, whatever our own ministers may think, the French ministers know, that this nation has many natural and powerful allies upon the continent, and they likewise know, that vigorous resolutions, vigorously and wisely executed, would reconcile to us those allies whom our late conduct has estranged from us. From all which, my Lords, I must be of opinion, that the danger of France's engaging in the war, is not near so hideous as the dastardly imaginations of some people may represent. I am persuaded, they will not venture to engage, unless they foresee, that the same spirit, which has rendered our peaceable measures ineffectual, may probably have such an influence, as to render most of our warlike measures abortive.

But, my Lords, if we do go to war, I hope the natural spirit of this nation will revive, I hope it will begin to exert itself; and if it does, I am sure it will get the better of every thing that can, of every man

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that dare oppose it. I must therefore think we have nothing to apprehend, for this year at least from France; and against Spain alone, we have no occasion to make a secret of our designs. We have now a fleet at sea, superior to any they can fit out against us; we have a number of troops to put on board, sufficient for attacking them in that part, where alone we ought to attack them. What then should hinder us from declaring war, the moment we find they despise us so much as to disregard every engagement they make with us? Why should we make an encroachment upon our constitution for the sake of concealing that resentment, which, the sooner it is manifested, the more it will tend to our honour? In less than a fortnight the chance of peace or war will be determined. If the court of Spain does not, in that time, comply with what they have so solemnly promised, it will be proper for his Majesty to come to his parliament and declare from the throne, that we must provide for war. The sending of such a message as this, at such a time, seems therefore to have been calculated by our ministers, for nothing else but to render the sending of such messages familiar to the people, and the complying with them habitual to the parliament.

Our not complying with the last part of this message, can be attended with no bad consequence: we may comply with, and approve of the first, without taking notice of the last: we ought to comply with the first, because it is reasonable, and because we may do so without any breach of our constitution. It is a certain, limited demand, and such a demand as ought to be provided for by parliament. Therefore I shall readily agree to the address of thanks proposed, so far as it relates to the first part of this Message; but that Address ought, I think, to be accompanied with another of a very different nature. However, as this is not the question now before us, I shall wave saying any thing upon it, till I see the fate of the present question.

The Earl of *Chesterfield*:

My Lords; as the first part of this message bears no resemblance nor relation to the last, and as most lords who have spoke upon the present question seem to approve of it, so far as it relates to the first part of the message now before us, I shall give your lordships no trouble upon that head. But as to what is demanded by the last part of this message, your lordships may call it a vote of credit, or a vote of confidence, or both, if you will: let the demand be what it will, our complying with it will, in my opinion, be placing a much greater confidence in, and giving a larger credit to our present ministers, than any ministers ought, by our constitution, to be trusted with. I shall never be for giving to any ministers an unlimited power to raise what number of troops, and what sums of money, they may think necessary; and upon this occasion I am the more against it, because of its being asked at such a critical conjuncture. We may, perhaps, be under some uncertainty at present; there may, perhaps, be at present a probability, that we shall soon be obliged to declare war against Spain; but in a few days that uncertainty will be at an end, and that which some are now pleased to call a probability only, will, in my opinion, within a fortnight, become a certainty; for if the 95,000*l.* be paid on the 24th of this month, we may look upon it as an earnest of peace, we may from thence conclude, that the Spaniards are at last resolved to do us justice; in which case we can have no occasion for raising more troops, or larger sums of money, than have been already agreed to by parliament, in a regular parliamentary method. On the other hand, if this sum of money be not paid upon the day appointed, I hope we shall at last have done with negociation: I hope no man will imagine, we are to purchase another ineffectual and collusive Convention, at a new expence of 4 or 500,000*l.* This session is, it is true, drawing towards a conclusion; but there is no necessity for putting an end to it before the 24th of this month: and if the parliament be then sitting, and the money not paid by Spain, what should hinder us from providing for war, in that method which is most agreeable to our constitution?

This Message, therefore, my Lords, seems to me to be designed for nothing but that of establishing the custom of concluding each session of parliament with a Vote of Credit and Confidence, without the least necessity or occasion; and this I cannot agree to, because I think it will be of the most dangerous consequence to our constitution. During the recess of parliament, the crown may have, by our constitution, a sort of dictatorial power; but that power will become much more dangerous when founded upon the previous

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authority of parliament. Our people have a sort of implicit faith in their parliaments, and will always be less jealous of the exercise of any extraordinary power, when it is founded upon the authority of parliament, than when it is founded upon an emergent necessity only. The dictatorial power was upon many occasions of great service to the Romans, and whilst it was kept within its ancient bounds, it was never attended with any inconvenience or danger. It was originally limited to the term of six months at farthest, and was generally resigned before that term expired; but the second man to whom it was granted for a longer term, put an end to the liberties of that republic.

This shews, my Lords, how dangerous it is, in a free state, to depart in the least from any of those regulations that were established by our ancestors for limiting the power of our ministers, which is always what is really meant, when we talk of the power or prerogative of the crown. Under those regulations we have lived happy, we have lived free, for many ages; but no one can tell what consequences the least departure may be attended with. It is allowed, that no vote of credit was ever granted before the Revolution, therefore every such vote must be a departure from our ancient constitution, and consequently must be dangerous; and every one will allow, that we ought not in prudence to expose ourselves to any danger, without an apparent necessity. If the crown has, during the recess of parliament, a sort of dictatorial power, may it not be now as freely exercised, as it was before the Revolution? May it not in time to come be as sufficient for protecting us against sudden and unforeseen dangers, as it has been for so many ages past? We are told, that the method of appropriation, introduced since the Revolution, makes this impossible. My Lords, let us but consider the state our public revenues were in before the Revolution, and we shall find there is nothing in this argument. Before the Restoration, the crown had no established revenue, but what was scarcely sufficient for supporting what we now call the civil list; and they had seldom any credit to borrow money from private hands, even upon the most pressing emergency. After the Restoration, indeed, we became a little more generous: a large, public revenue was settled upon the crown; but that revenue was appropriated as much as it is now, though not in so express terms. A part of it was allotted for supporting the Civil List, another part for paying the few guards and garrisons, that were then kept up, and a third part for supporting the navy. If any of these services had been neglected, and the money converted by our ministers to other uses, I believe the parliament would have then been more ready to have enquired into, and punished such misapplication, than they have ever appeared to be since that time; and the crown had, after the Restoration, as well as before, but very little credit for borrowing money from private hands. During the recess of parliament, the crown had no resource against sudden emergencies, but that of making use of the little credit it had for borrowing money from private hands, or that of leaving the pensions and salaries of courtiers unpaid, and converting that money to the service of the nation. This made it always necessary for the crown to call a parliament as soon as possible, and the parliament replaced what had been laid out for the public service, if they approved of it, or they put a stop to the expence, if they disapproved of the service.

Now, my Lords, let us consider our public revenue, as it stands at present; by which I mean, the whole money raised yearly upon the people, by the annual or perpetual grants of parliament. It is now above three times as much as it ever was before the Revolution; and every shilling of it passes now through the fingers of our ministers, as well as it did then. One part of it is allotted for the support of the Civil List, another part of it for paying our armies and garrisons abroad and at home, a third part of it for paying our seamen, and supporting our navy, a fourth for paying the interest growing due yearly to our public creditors, and a fifth for paying off yearly so much of the principal, when we can keep our ministers from laying hold of it for warlike preparations in peaceable times. These, my Lords, are the uses it is designed for, and to these it is appropriated; but in case of a sudden emergency, during the recess of parliament, what should hinder our ministers from leaving the pensions and salaries of courtiers unpaid for a few months, and applying that money to the service of the nation? I believe the parliament would be as ready to supply the deficiency thereby occasioned in the Civil List, as ever they were to supply any pretended deficiency in that revenue: I am sure they would have more reason; and no man in the kingdom could

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find fault with our ministers for advising the crown to apply to the safety of the nation, in a case of necessity, that which was particularly appropriated to the support of the crown. But if this should not be sufficient, what should hinder our ministers from contracting a small debt for the immediate safety of the nation? For that they may and do contract debts without any previous authority from parliament, the great navy debt lately paid off, the great navy debt still remaining due, and the many grants that have been made for making good deficiencies in the Civil List, are sufficient testimonies. Therefore, as the pensions and salaries paid out of the Civil List now amount to a much larger sum than they ever amounted to before the Revolution, and as the crown has now much more credit, both for contracting and running in debt, than it ever had before that time, I must conclude, that a Vote of Credit is now less necessary than it ever was, or could be, at any time before the Revolution.

Thus, my Lords, it must appear, that such a Vote of Credit and Confidence, as is now desired, is not only dangerous, but unnecessary; and no experience, no precedent can warrant our running ourselves into an unnecessary danger. We are not in this House, nor any where else, to say, that his Majesty has ever put the nation to an unnecessary expence: it is, in my opinion, a failure in the respect due to our sovereign, to bring his name into any such question. But we may make a little more free with his ministers; and that they have, upon some occasions, put the nation to an unnecessary expence, has been said in this House, and is now said in every corner of the kingdom; nor will it be said, I believe, by many persons in the kingdom, that they have regularly and strictly accounted for every shilling of the many millions that have passed through their hands, for these twenty years by-past. Therefore, if we judge from experience, we can have no great reason for giving them a power to run the nation as much in debt as they please. Such a power must always be of the most dangerous nature; because the more they run the nation in debt, the more they may depend upon having that power renewed, the more secure will they be against being called to a strict account. Like the Spanish governor, who, for his many oppressions and extortions, was recalled from his command in America, their security against punishment will depend upon their having been guilty of every crime that is laid to their charge.

But suppose, my Lords, there were no danger in our complying with every part of this Message, and suppose there were a greater necessity for it than there seems to be at present; yet, when I consider to whom we are to give the extraordinary powers asked for, I cannot agree to it. I shall never agree to the nation's giving an unlimited credit to ministers, who, with me, never had any credit; nor can I give my consent to the nation's putting so much confidence in a ministry, in which I never could put any confidence. My Lords, we have granted them such powers as this before now: We have never refused them any thing; and yet they have never so much as once deviated into what, I think, may be called right. But, on the contrary, they have, in my opinion, prostituted the honour, sunk the reputation, squandered the wealth, and almost ruined the trade of this nation. To me, my Lords, they seem to have been playing, for almost these twenty years, at a sort of game of hazard for peace or war; and at last, by a lucky nick, out started a thing they call a Convention, which is neither one nor the other; but is to be made either the one or the other, they cannot yet tell which, if we will but grant them some extraordinary and unusual powers, for enabling them to continue their game. What their future success may be, I shall not now pretend to divine; but, I am sure, I shall never be for giving unlimited credit to such awkward gamesters.

As for that of empowering his Majesty to augment his forces: in case of a war, my Lords, he has no occasion for such a power: he may augment his forces both by sea and land, without any such power; and if there is to be no war, I am sure, he ought not to augment them, and much less ought we to give our consent. Nay, I do not think we can give our consent in the method proposed. The consent of parliament ought always to be understood to be by a law regularly passed, and agreed to by the three several branches of our legislature. It is upon this the security of our constitution depends, because it prevents surprize. Both Houses of Parliament may be surprized into a vote of the most dangerous nature, by our ministers taking advantage of an opportunity when there are few members in town, but such as they order to attend. Precedents, my Lords, are of an improving nature: if it should

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once be received as a maxim, that the parliament may, by a vote, consent to an augmentation of our army in time of peace, that maxim may at last be extended to the altering, repealing, or making any law the crown may, by a Message, please to desire; therefore, I cannot agree to what a noble lord has been pleased to say in this debate, "That the consent of parliament may be signified by a Vote or Resolution, in pursuance of a Message from his Majesty, as well as by the preamble of a Bill." I am far from contending with that noble lord in law learning or distinctions, but notwithstanding what he has said, I must look upon the present motion, if it be agreed to, as a repeal of the Mutiny Bill. I must suppose, that by the word 'whole' in the preamble of that Bill, we did not mean 'a half,' or any number of parts: I must suppose, we thereby meant to limit the number of troops to 17,704 men; and as every clause in a Bill must relate to the preamble, therefore, when there is a general limitation in the preamble of a Bill, that limitation, without being repeated, must run through the whole, and must be supposed to be a limitation upon every clause; for which reason, I must be of opinion, that no clause in the Mutiny Bill we have already passed, can relate to, or comprehend any number of troops above that which is mentioned in the preamble. Nay, I do not know, but that the raising and keeping up a greater number of men, may render the whole Bill ineffectual, by making it impossible to determine who are within, or who are without the enacting clauses of that Bill.

In my opinion, my Lords, it is a most dangerous doctrine, to pretend, that when a law is passed for keeping a certain limited number of troops in order, it must relate to, and comprehend all the troops which our ministers may think fit to raise and keep up during the continuance of that law; because, in such a case, it may be made to serve for obliging our army to subdue, instead of defending their country: And if it does not comprehend all the troops which our ministers may think fit to raise and keep up, we must allow, that it cannot be made to do so by a vote of either, or both Houses of Parliament, unless we allow, that an act of parliament can be altered or amended by a vote; and if it can be altered or amended, we must allow that it may be repealed by the same method. Thus, by agreeing to this Message, we must establish a most dangerous, and, I think, a false doctrine, of the one side or the other.

It signifies nothing, my Lords, to say, that, by our complying with this message, no man is to be compelled to enter into his Majesty's land-service: we know how ready young gentlemen are to accept of commissions in the army, and a great number of new officers will always get a great number of men to list voluntarily into the service. When commissions are granted, and orders for new levies issued, we are not to suppose, that the officers, when they accept their commissions, will be told, that they are to be employed in subduing the liberties of their country; nor are we to suppose, that the men, when they are prevailed on to list, will be told, that they are to fight against their country. Our warlike preparations will always, in such a case, be said to be intended against some neighbouring nation that has insulted and injured us, though our ministers be secretly resolved to submit to every indignity that can be put upon the nation by neighbouring powers, rather than be interrupted, by a foreign war, in the hostilities they are carrying on against the constitution and liberties of their country. By such a pretence, my Lords, many gentlemen may be induced to accept of commissions, many private men may be induced to list as soldiers, with the honest and brave view of serving their country against its foreign enemies; but after they have once entered into the service, they may, by our Mutiny Bill, thus interpreted, be compelled to serve against their country, by assisting its domestic and most dangerous enemies; for they cannot then leave the service, when they have a mind, nor can they safely refuse to obey any order they receive from their commanding officer; because the court martial is to determine, whether the order be lawful or not; and a court martial, chosen by a minister, will probably determine every command to be lawful, that proceeds from his authority, secret or revealed.

Having now shewn, my Lords, that it is dangerous, unnecessary, and inconsistent with the Bill already passed into a law, to comply with this message, I need not, I think, expatiate upon the consequences of our not complying with the latter part of it; for let those consequences be as dangerous as they will, I hope I have made it appear, that it ought not to be complied with. But the consequences of our not complying with it, are so far from being

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dangerous, that, I think, it will be attended with great advantages. Spain, I am convinced, has no hopes from a war, if on our side it be wisely and vigorously prosecuted. Their only hopes, I believe, are founded upon the continuance of our present administration. They have by experience found, that our present ministers may be amused, and they hope to amuse them with negociations for some years longer; or if they cannot amuse them with peaceable negociations, they hope, that our warlike measures will be carried on in the same languid and ill-judged manner our peaceful measures have been; in which case they may, like the terrier with the fox, by mere teazing, at last force us to accept of unequal and dishonourable terms. We can no way put an end to these hopes so effectually, as by shewing, that our parliament is not under the absolute direction of our administration. If the Spaniards see, as they must see by our refusing to comply with this message, that the parliament has seriously taken the state of the nation into consideration, and that we have resolved to be what we really are, his Majesty's chief and supreme council, their flattering hopes will all vanish, and then they will of course comply with our just demands. The 95,000*l.* will be paid upon the day appointed, and all other disputes will soon be settled to the honour and advantage of this nation; so that if the 95,000*l.* should not be paid, or if a war should ensue, I shall impute it to our complying with the message now before us.

I am surprised, my Lords, to hear it said, that our refusing to comply with this message, would give the court of Spain, or any other court in Europe, cause to imagine, that there would be a breach between his Majesty and his parliament. Can we suppose that court, or any court, so ignorant of our constitution, as not to distinguish between his Majesty and his ministers? can we suppose them so ignorant of his Majesty's regard for our constitution, as to imagine, that he would espouse the cause of his ministers against his parliament? God forbid! that any of his illustrious family ever should, I am sure he never will; therefore, all the court of Spain could expect from such a parliamentary contumacy as I am now pleading for, is, that it would produce a change of ministers; and from such a change, I am convinced, they can expect no advantage. If they saw but the least reason to suspect it, I am persuaded, they would be glad to comply, not only with what they have promised, but with every thing we could in justice demand. If an honourable peace, therefore, be a desirable thing, as it surely is, I must think our refusing to comply with this message, the most ready way to obtain it; and for this reason, among many others, I shall give my negative to the question.

The Lords' Address of Thanks for the Treaty with Denmark.] The following Address was agreed upon and presented to his Majesty:

"Most gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords Spiritual and Temporal in parliament assembled, beg leave to express the grateful sense we have of your Majesty's royal care and attention for the peace and welfare of these kingdoms, and for preserving the public tranquillity, and the balance of power in Europe.

"At the same time, permit us to return your Majesty our humble thanks, for having concluded a treaty of defensive alliance with the king of Denmark, and for having ordered the same to be laid before us; and to assure your Majesty of our concurrence and support, in making good the engagements which you have thereby entered into.

"We also beseech your Majesty, to accept the strongest assurances, that we will zealously and cheerfully support your Majesty, in making such further augmentation of your forces, either by sea or land, as may become absolutely necessary, by reason of any emergency, arising from the present posture of affairs in Europe, which may nearly concern the honour, interest, and safety of these kingdoms; and in concerting such measures, as the exigency of affairs may require."

The King's Answer.] The King gave this Answer:

"My Lords, I take this Address as a real mark of your zeal and affection for my person and government. You may depend upon it, that the confidence which you repose in me, shall be made use of with the strictest regard to the true interest of my people."

Debate in the Lords on a Motion for an Address to know whether Spain had paid

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the 95,000*l.* stipulated by the Convention.*] May 31. Lord *Bathurst* rose and said:

My Lords; the time is now expired, that was stipulated by the Convention, for the payment of the 95,000*l.* and we have now before us a Bill, by which his Majesty is enabled to pay 60,000*l.* towards the discharge of a debt owing to the crown of Spain. As we are so very punctual in fulfilling our engagements to that crown, I think, it would be highly worthy of this House, to address his Majesty, to know if that crown has fulfilled any part of her engagements to us. Therefore, I hope, your lordships will pardon me, if I take the liberty to move, That an humble address be presented to his Majesty, that he will be graciously pleased to acquaint this House, whether the sum of 95,000*l.* agreed by the late Convention to be due on the part of Spain, as a balance to the crown and subjects of Great Britain, and stipulated to be paid in money, at London, within the term of four months, to be reckoned from the day of the exchange of the ratifications, has been paid in pursuance of the said treaty; and, if not paid, on what pretences the same has been delayed or refused by the court of Spain?"

The Duke of *Newcastle*. My Lords, it was natural to foresee, that a motion of this kind would be made: therefore, I have leave from his Majesty to acquaint the House, that the said sum is not paid, and that no reasons have as yet been given on the part of Spain, for non payment.

Earl of *Aylesford*. My Lords, it is very surprising, that any lord should take upon him to bar the access of the House to his Majesty, and, I think, that this answer is by no means parliamentary. The noble lord said, he has leave to acquaint the House, so and so. How could his grace know what motion was to be made in this House? And if he did know, is it not a very great proof of the noble duke's courage, to take upon him to step betwixt his

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* *From the Secker Manuscript.*

May 31. Debate on the Motion for an Address to know whether the 95,000*l.* was paid, and if not, what reason was given?

Bathurst. Made this motion.

Newcastle. It is not paid.

Bathurst. This is not an answer to the whole of the motion. Nor is such an answer a parliamentary one.

Newcastle. I have answered the first part, and have liberty to say, that I do not know that the Spaniards have given any reason.

Bedford. We must know this in a more parliamentary way: else we can take no notice of it.

Newcastle. I have the King's leave to give this account, and the House is as thoroughly informed thus as it can be by an address.

Aylesford. The dignity of the House, and the importance of the subject, require a direct application to the throne. For a secretary to say he hath leave, is a way never used. Are they afraid the King should see new faces, and hear all the Lords assure him of their readiness to support him. Who can have informed the King that this motion would be made. No lord ought to do it. This way is telling the Lords against the Convention, that they shall not approach the King's presence.

Newcastle. I wish all the Lords would attend the throne in a proper manner. I obtained this leave from respect for the House, that they might not say they had been trifled with about a matter which they might have been told. This doth not prevent the House from giving what advice they please.

Aylesford.

Chesterfield. Most persons would think we could not be treated with such contempt as to have no reason given for not performing the only thing stipulated. But you are not warranted by what the noble duke hath said to give any advice, though in private Bills such a message is sufficient.

Willoughby.

Cholmondeley.

Hardwicke. C. An Answer by leave is a parliamentary answer. The House cannot go in a more irregular method than an Address on this matter now. It is not usual to ask the King a question of fact, which the King can only know by his ministers. But we are got into a method of framing a Political Catechism. No person could answer this without leave from the King. When it hath been the common discourse, that such a motion would be made, the Secretary may tell the King this, and ask him whether he may say so and so.

Argyle. I wish this question had been prevented by the ministers advising the King to lay this matter before the House. The Crown hath been often addressed to know who gave such or such advice. This is a question of fact. The House once commanded a Secretary of State to write to the States of Holland to desire they would not entertain a fugitive. But of late it hath been debated, whether papers might be sent for to the treasury. If the noble duke had had a command to tell the House, that had been different from a permission.

Question upon the Motion for an Address, &c. N. C. - - - - - 56.
C. - - - - - - 42.

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Majesty and this great council, and return a verbal answer to an address, before it has been presented, even before it has been agreed to? My Lords, how will this be looked on without doors? May it not be very justly thought, that this answer is calculated to exclude from his Majesty's presence, all those who had the honour to vote against the Convention.

The Duke of *Newcastle*. My Lords, I thought I was doing the House a piece of service, in saving time thus late in the session. The Answer I have given, is the very same that the House will receive, if the Address should be presented. But, my Lords, I have another reason for opposing this motion, and that is, because it is by no means parliamentary. The motion is for an Address, That his Majesty would be graciously pleased to acquaint the House; whereas, all addresses of that kind, are, that his Majesty would order the Secretary of State, or the proper officer, to lay before the House the papers that may be nccessary for our information in such cases. Now, my Lords, this is the very thing his Majesty has done. There are no papers, indeed, to be laid before the House on this occasion, but he has ordered me, who have the honour to be a Secretary of State, to return the House the same answer that would have been returned, if the address had been presented. As to my intention of precluding the noble lords from having access to his Majesty, I do aver, my Lords, that I am so far from having any such intention, that nothing would give me greater pleasure, than to see the noble lords, who voted against the Convention, more assiduous than they are, in paying their duty personally to his Majesty. Therefore, my Lords, I hope this motion will be thought improper; and the rather, because the term stipulated for the payment has been but a very few days elapsed, and it would be rash to come to any resolutions on this head, (which we must do, if the address should be presented) without having a little farther patience.

The Duke of *Argyle*. My Lords, it is now high time for us to lay aside using the medium of ministers, in presenting addresses, or receiving answers from the crown. We ought now, my Lords, to inform his Majesty ourselves, of things that the ministry appear to have neglected. It was foretold again and again in this House that this money never would be paid, and the whole merit of the Convention was to stand or fall by the behaviour of the court of Spain in that respect. Now it appears, that the money is not paid. What is to be done? Shall we again trust to ministers, who, it is evident, have mis-informed his Majesty in every step in this affair? No. Let us apply to the crown ourselves; his Majesty's known tender regard to the rights of his subjects, leaves us no room to doubt of obtaining redress. I must take notice of somewhat said by the noble lord who spoke last: he thought it was always customary for the crown to return its answers to this House by the ministers. It may be the custom, my Lords, but this House has sometimes been so dissatisfied with such a proceeding, that we have addressed the crown to know by whose advice such an answer was given. If the address now moved for, could be answered by any papers to be laid before us, we had no occasion to address, we needed but have appointed a committee, with the power that committees commonly have, of sending for papers, records, or persons, as they think fit. But my Lords, it is not so much for information, that we ought to agree to this address; we ought to agree to it, in order to open a communication betwixt his Majesty and his great council, without intervention of a minister. The word 'Minister,' my Lords, has been very much misunderstood of late. It has a British and a French signification. In the British sense, my Lords, it signifies a servant of the parliament, a servant of the people, as well as of the crown; and this House has formerly understood ministers to be under their immediate direction. We have an instance of it in the reign of king Charles II. when upon a complaint of a breach of privilege to this House, the offending party fled to Holland: what did this House, do my Lords? It ordered, by its own authority, the secretary of state to write to Holland, and reclaim the offender. The French sense of the word minister, my Lords, 'Maitre de Palais,' is one who acts in place of the king, one who is accountable to none but the king, let him be guilty of never so many miscarriages or mismanagements. I am sorry to see it, but we seem of late to have adopted this last sense of the word. Ministers of Great Britain seem to be as absolute as they are in France: but my Lords, I hope your lordships will assert the dignity of this House, and agree to this Address.

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The question being then put, it was carried against addressing by 51 to 38. The division being over, the lord Carteret moved, That Monday next be appointed for taking the State of the Nation into consideration; which was agreed to.

*Debate in the Lords on a Motion, That the Non-payment of the Money due from Spain is a Breach of the Convention.**] June 4. The Lord *Carteret* opened the debate as follows:

My Lords; we are now met to consider of the State of the Nation, a state more fit for meditation than discourse; a state whereof none of our forefathers has seen the parallel, and which requires all your lordships' attention to prevent our posterity from feeling its consequences. As your lordships have already found, that the obligations which Spain had entered into by the late Convention, are on her part unfulfilled, the House I hope will pardon me if I now treat that measure as no longer existing, and lay before your lordships a detail of what prudence, honour, and a just regard for the interest of this nation, ought to have dictated to those, who negotiated that Convention, as the proper measures to be pursued, instead of that ruinous treaty.

Give me leave, therefore, my Lords, to say, that after the refusal, on the part of Spain to give up the point of no Search,

* *From the Secker Manuscript.*

June 4. Debate, Whether it shall be voted that the Convention is broken.

Carteret. The State of the Nation is fitter for meditation than discourse: but not having been meditated upon as it ought where it should be, this House must consider it. All men must think the Convention at an end. I shall say nothing against the late Convention. I wish it were as if it had not been. I could hardly have believed they would not have paid. All that was meant, was to furnish you with a pretence to raise money against yourselves. It was worth while for Spain to have given twice the money to have got their Galleons home. They must pay more for the insurance of them: but they shew they will have nothing to do with you. Had they paid we had been bound till their Galleons had got home; but now all accounts are at an end, and we are at liberty. I am not for a war: we may negociate ourselves into one; but stick to the treaties and you cannot have one. In the treaty of 1670 an end is put to reprizals, an absurd practice between great powers. Royal Navies are kept by the merchants, and must protect the merchants. In that treaty it is said, you shall have resort to the methods allowable by the law of nations. If we do this, Spain may indeed declare war; and if we are afraid of that, there is an end. Spain can have no friends in this question: for it is the concern of all Europe. It hath been most unministerially said, that the property of all nations is in the Galleons. They are all deemed to be the Spaniards, and no foreigner can reclaim anything. You may shew your justice and your courage both. Take what belongs to Spain: give back the rest to others. They will be glad to pay you the Indulto. By accident Spain is in a worse condition now than last year. Their Galleons have three years treasure aboard. I mean nothing personal, but only to get my country out of the miserable condition it is in. Motion that the nonpayment of the 95,000*l.* is a manifest infraction of the Convention, an indignity to his Majesty, and an injustice to the nation.

Halifax.

Newcastle. The Royal Navy ought to be exerted in defence of the nation. It is owing to that, that Spain is in no better a condition. It may be owing to it that their treasure may stay where it is; a demand upon the treasure of the Galleons hath been made by other nations and complaints of high Indultos. The non-payment is no argument against the Convention. If Spain could have taken the money out of our pockets, they would have paid it. If making the Declaration now proposed was necessary in order to do what is proper, I would not be against it. But the sense of the House is known, and the King hath given his word. Therefore this question is not necessary. Every body will think in the same manner if this Convention *comes to be broken, if it should not be executed.* The question proposed may be interpreted as a doubt whether the right part will be taken in return for the wrong one taken in Spain. I beg leave to hint the inconveniences of such a Declaration. This is a ticklish ground to go upon, I mean on account of the nation: not personally. It is desirable that if we must break it, may be with that power alone. The immediate consequence of this question is a declaration of war. They have allies which indeed they would have no right to call upon if we did declare war, but they would make their cause look plausible, perhaps they may think the spirit worked up against them so high that they may as well break with 95,000*l.* in their pockets as otherwise. This question will only turn to their advantage for whose advantage it was not designed. The Parliament advised last year first fair means, then force. The Convention was an experiment of eight months to try if war could be avoided. But *if that should be broke* there can be no difference of opinion what should be done. The delay hath lost nothing if Spain is in a worse condition: and you cannot have a more favourable point to proceed upon than a breach of a Convention. And as to the money

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our ministry shewed a disrespect to the sentiments of this House, in any longer continuing their negociations with that court. His Majesty, the nation, and all the world must have acquitted them, if on such a refusal they had no longer looked on the differences with Spain, as the cause of the ministry, but of the parliament; they ought then to have appealed to the parliament for justice, and we, my Lords, must have supported them, because the discontinuance of their negociations was but the

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given last year by Parliament, there hath been a saving made upon it. The power of war and peace is in the Crown. The House may advise, but if what is necessary will be done this motion is needless.

Strafford. Read the question. We should first have considered the state of the nation, and then thought what question was proper. I have sat in this House 43 years.

Question read.

Chesterfield, I hoped a question of fact would have been entertained, and that those lords who can would have communicated the lights necessary for giving advice to the Crown. This part of the Convention was the test of the King of Spain's good intention. If it be improper now to say the Convention is violated when will it be proper? Will it be when the Parliament is up? I hope it will be continued whilst this matter is depending. There is no *if* in the case whether the Convention be broken. No man hath more regard than I to the unadvised answers from his Majesty, but answers by ministerial advice are not much to be relied on. There have been three representations to the King, and as many answers, and nothing done of consequence. For 19 years nothing necessary to be done hath been done, and we are now in a worse situation than then. We are a by-word amongst the nations. No private debtor ever treated a creditor thus. The reason cannot be that the South Sea Company would not pay the 68,000*l.* That we have been told had no relation to the treaty. Spain formerly ordered what admiral should be turned out, perhaps now it may say; I will have such a general turned out, and I believe we shall obey. All protests are become prophecies, more literally fulfilled than any for 1,700 years. Delay is not a probable way to have to do with Spain alone. [Here the Duke explained himself to mean a delay not of action but of declaration, which last the case of individuals as well as the public required.] The present time is the most unlikely for France to come in, considering the age of the Cardinal. Spain is bankrupt. Our state, bad as it is, may be worse if we shew our fear to others and dare not look into it ourselves. If a stranger to our affairs for 19 years were told we had great debts, and had paid none of them, he would say; But you have been obliged to vindicate your honour. If he was told how our honour had suffered he would say, But you have been saving money to pay off your debts. But if he were told we had done neither, what would he say then? What will Spain say if you do not come into this question? They have had 45,000*l.* allowed for prompt payment of what they have not paid at all. I hope Spain will never know this question hath been opposed.

Cholmondeley. Nothing can be proved from the non-payment but the treachery of the Spaniards. There is but one opinion as to the fact, but declarations are useless, and must be followed by such advice as must produce a war immediately. The constant practice in Spain hath been to make no declarations. Gibraltar was besieged whilst your embassador was at court. All our merchants effects will be seized upon a declaration, and they may forbid the return of the Galleons.

[The Duke of Argyle said that would be a good thing, for it would be great odds if we took them.]

Bathurst. Six months are allowed for the merchants to remove their effects. Will Spain break this also?

Hervey. Every body owns the fact. Therefore there is no reason for this motion but a distrust that the Crown will not do what is proposed. Perhaps the design is not to make a declaration of war: but it will be something equivalent.

Lonsdale. I own my distrust whether the ministers will give the same advice that this House would. The ministers left Spain in the opinion that the 68,000*l.* of the South Sea Company would be part of the 95,000*l.* They must foresee this must probably make a breach. If they meant any thing against Spain they would have prepared, they should have given notice that a difficult time was approaching for the merchants. I am against a declaration of war: declare the Convention to be at an end, and that the King should do what he would have done if it had not been made. Taking satisfaction is acting under treaties. I would leave out of the question, the mention of indignity, &c. for without going to war on account of it we should not name it.

Hardwicke. C. This is a consideration of the state of the nation, and therefore every part of it is to be considered, and this was part of the wisdom of your ancestors in using this stile. I am sensible of the indignity put upon the nation, and the vengeance it requires. These things may raise a spirit, and the same spirit cannot be thrown into the tide of speaking against this question. But that is not the point: no harm will come to Spain from this question being carried. It will only be giving them notice. The lord who spoke first said the state of the nation was fitter for meditation than discourse, I add, fitter for action than discourse. The thing must be done, and they who advise the Crown will give the same advice that the House would. But you cannot come

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necessary consequence of our own advice to his Majesty. The Breach of the Convention on the part of Spain, my Lords, regains us that opportunity, which we are now to improve, in the same manner as if the Convention had never been made.

We must therefore, my Lords, now have recourse to arms; and, I believe, I need not suggest to your lordships that the sea is the only element where our quarrel can be decided, as it is the element on which it began. This, my Lords, was easy to have been foreseen by our ministry, even before the Convention was concluded. But now, my Lords, as Spain has wounded the honour of the crown, and people of Great Britain, by adding a Breach of that Convention to other insults and injuries, we ought to proceed after a more vigorous manner, than might have been necessary before the Convention was concluded. We ought not now so much as to mention reprisals by our merchants. Reprisals by merchants, my Lords, to a little state are pernicious, and to a great one dishonourable. As the insult has been offered to his Majesty, his Majesty's ships ought to make reprisals: therefore, I was surprised when I heard it mentioned without doors, on this occasion, that the ministry had offered reprisals to merchantmen and private persons. If the royal navy of Great Britain does not act now, we may despair of ever seeing it act; for, my Lords, if all the circumstances of the last insult, which Spain has offered to the nation, are considered, we perhaps shall not find the like recorded in history. She has now her ships ready to sail for the West Indies; she has other ships, the property of which belongs all to herself, on their voyage homewards; yet she holds us so much in contempt, that though she could get the one sent out, and the other brought home with safety, by paying this paltry sum of 95,000*l.* she refuses to do it. Is not this, my Lords, telling us that she will treat no longer: that we dare not resent whatever affront she gives us; and that she will risk all the effects, all the trade she has at sea, rather than fulfil one article of her engagements?

As this, my Lords, is evidently the State of this Nation, with regard to Spain, I shall beg leave to make a motion to your lordships, which I intend as an introduction to some others that may follow, if your lordships shall think fit to agree to what I am now to propose. I therefore, humbly move your lordships, to resolve, "That the non-payment of the 95,000*l.* agreed to by treaty to be due from the crown of Spain, as a balance to the crown and subjects of Great Britain, and expressly stipulated to be paid in money in London, within 4 months after the exchange of the ratifications, which time is now expired, is a manifest infraction, on the part of Spain, of the Convention lately concluded between the two crowns, an high indignity to his Majesty, and an injustice to the nation."

Lord *Halifax*:

My Lords; could I be persuaded that the same conduct, which has sunk the nation to that degree of contempt, which the noble lord has just mentioned, could regain her honour, and assert her dignity, I should not have troubled your lordships on this occasion. But my Lords, convinced as I am, that a continuance of the same conduct will, if possible, sink us still lower

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into this whole question without advising the Crown to declare war. Satisfaction for the loss is one thing, for the insult another.

Argyle. The previous question [which I suppose somebody had moved] is sometimes a parliamentary act to hinder a thing which could not be hindered else. The Spaniards must think you will resent their behaviour unless they think the administration will prevent it, which cannot be thought after what the Lord on the Woolsack hath said. But whatever security the word of the ministry may be to the nation, an address of this House will fix it that the ministry will not be returning into Egypt. It becomes every man to have a jealousy of his dearest friends that are in an administration. We may have another negociation if we do not pin them down; and I would make it impossible to treat but as Britons ought to do.

Scarborough. I have been in great anxiety about the question of this day. I do not love to deal in egotisms, but sometimes it may be forgiven. Neither fear nor expectation nor popularity moves me. The question is whether such measures as the nation calls out for will be taken. If they will let the King have all the merit he can. The ministry are so earnest that this question may not be put, let us do nothing that may throw the blame on us if their measures should fail. I am firmly convinced that such measures will be taken. I shall take shame if I am mistaken, and no lord shall exert himself against them more. I never took more pains to judge right, and have altered my mind more than once in this House.

Previous Question:

N. C. 63, of whom were Bishops of Oxford and Gloucester.

C. 44.

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in the eyes of every nation in Europe, I cannot help taking this opportunity of expressing my concurrence with the motion made by the noble lord. I do it, my Lords, from no disrespect to the persons of those who have the honour to be employed by his Majesty; far less do I mean to reflect on any noble lord here. I have the greatest personal regard for many of the noble lords whom I see, and who I know have had the honour to advise his Majesty; but, my Lords, as I am persuaded they acted to the best of their knowledge, I hope I shall be pardoned if I act to the best of mine, and declare to your lordships, that my sincere opinion is, that it is now high time for this House to speak the sense of the nation, and endeavour to regain by our arms what we have lost by our councils.

The Duke of *Newcastle*:

My Lords; the noble lord who spoke last, has delivered himself with so much decency, that I am sorry I am obliged to differ from his lordship as to the fitness of the present motion. The fact, my Lords, contained in the motion, is what I shall be far from denying; I readily own, that Spain has behaved in a most scandalous, unaccountable manner to this kingdom, and that she merits the severest chastisement of our arms. But, my Lords, give me leave to observe, that it is not Spain alone whom we are to consider in the present question; had we to do with her only we could soon bring her to reason. But, my Lords, who can answer for the part that a neighbouring power, greater than Spain, may take in this quarrel? I do not mean that we are tamely to put up with affronts and losses for fear of this neighbouring power; I only think it is highly worthy your lordships' deliberation, to consider how far it is proper to put both that power and Spain upon their guard, by our coming to a Resolution that must inevitably produce an Address to his Majesty for an immediate declaration of war. What makes this consideration, my Lords, the more necessary at present, is, that the kingdom is at this juncture unprovided to make head against these two powers. Let us once, my Lords, put ourselves in a condition to strike a blow, and then we may strike it surely and safely. But by coming to this resolution we give our enemies warning, we put them on their guard, which may be the means of our miscarrying. My Lords, I look upon the Convention in a different light from the noble lord who made the motion, and though I did not think that it was a good measure, as I sincerely do, I think myself obliged to treat it with some decency, because it was approved by this House. However, my Lords, as I have no objection to the facts contained in this motion, but only to the prudence of our agreeing to it at this juncture, I humbly move that the previous question may be put.

Lord Strafford was of opinion, that the question should be put upon the motion; but the Lord Chancellor saying, that any peer might move for a previous question, the House seemed to acquiesce in his opinion, upon which,

The Earl of *Chesterfield* said:

My Lords; I shall deliver myself to your lordships in the same manner as if the question itself were put, lest I should not have another opportunity of speaking on this subject. The state of this nation, my Lords, is a very complicated subject, and requires that we should look farther back than the present juncture. Our melancholy situation is owing to a series of misconduct for many years past. This kingdom has paid immense sums towards the support of the government, without receiving the least advantage in return. Are our manufactures improved? Is our trade extended? Have the arts of peace been cultivated among us, during the long expensive peace we have enjoyed? No! they are all visibly gone to decay. Have we suffered these to go to decay, in order to reduce a formidable enemy, or to quell domestic insurrections? No! our enemies are more insolent and powerful than ever, and domestic insurrections we have had none. Even at this instant, my Lords, Spain continues her depredations with more violence than ever, and yet the people of these nations are willing to contribute their last shilling, to enable the government to support its own honour. This last insult, my Lords, we have received from Spain, is of a piece with the rest of her conduct, for these 20 years past. What could we expect after submitting to the terms of the Convention, after submitting to reduce the demands of our merchants very near one half, after submitting to accept of their infamous protest, and after submitting to deduct 45,000*l.* for the prompt payment of what will never be paid?

The noble duke has told us, that we do

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not know what part a neighbouring power may take, if we should proceed to violent measures. Let her take what part she will, my Lords, we can be in no worse situation than we are. But what part can she take? She cannot look us in the face at sea; she cannot prevent our seizing the Spanish plate-fleet; she cannot reclaim one farthing of the effects, if we should seize them, because they are all entered in Spanish names; and therefore it will become our lawful prize. But, says the noble duke, We are not yet ready. What, not ready, my Lords, at this time of day? whose fault is that? Has the government been refused any thing it has asked to strengthen his Majesty's hands? or has any thing happened that was not both foreseen and foretold? I remember, my Lords, it was foretold that this money never would be paid; and what was the answer? It was insisted on, that we were so formidable that Spain never would dare to refuse to pay it. The whole merit of the Convention was put on that single point. Can you doubt, said they, that Spain has disavowed her depredations, when here she pays damages for them? '*Habetis confitentem reum:*' Sure she will never pretend to insult us for the future. But, my Lords, we see she has not only not paid it, but holds us so much in contempt, that she will not so much as give a reason for her refusal. By this, my Lords, she has given the lie to every argument advanced in favour of the Convention, and I hope we shall not act so far below the dignity of this House, as to refuse to put a question upon a fact that is on all hands acknowledged to be true. This, my Lords, would give every foreign power, and every man in the kingdom without doors, a more contemptible opinion of us, than they have ever yet had of the ministry. Let us therefore, my Lords, as a noble lord said, with a spirit worthy of the blood and name he bears, for once speak the sense of the nation, and endeavour to regain by our arms, what we have lost by our councils. Let us lay before his Majesty the true state of the nation, that he may no longer be imposed upon by those who have so notoriously betrayed her interest, and disregarded his honour.

The Earl of *Cholmondeley*:

My Lords; if I thought that our putting the main question could be of any service, either to his Majesty or the kingdom, no lord should more readily agree to it than myself. But as I am persuaded that it might be a detriment to both, and could, in no event, be of any advantage to either, I must beg leave to be against it. The noble lord, who spoke first, said very rightly, that Spain, by not complying with the payment of the 95,000*l.* had forfeited a great many advantages of much superior consideration, which she might have had if she had paid it. My Lords, this is one reason, to me, for thinking that Spain is not so unprovided of alliances and forces as we flatter ourselves, otherwise she would never have done so impolitic, so unjust a thing. And, my Lords, give me leave to say, that if we should attack the Spanish Plate-fleet, Spain would be the least sufferer, the loss must come upon us and our allies, so that all we should gain, must be the ill-will of our neighbours, and the ruin of our merchants. A noble lord who spoke in the debate, said, that we were to consider all the effects in that fleet, if seized, as lawful prize, because entered in Spanish names. They are so, my Lords; but we know it has been always understood, that so much of these effects as belonged to other nations, have been as much their own property, as if they had been actually entered in their own names: and that, before now, they could have been both reclaimed and restored as such. Therefore, my Lords, as I see no good that can attend our putting the main question, I hope your lordships will agree to our putting the previous question.

Lord *Bathurst*:

My Lords; I own that I am for going upon the main question, because, if we longer defer entering into vigorous measures, we may lose an opportunity we never can regain. We have trifled too long with Spain, and if we should trifle longer, the generous resentment of this nation may wear off: people will begin to think that they are for ever to suffer, and, instead of blaming Spain, they may blame us. For my own part, my Lords, I wish to see something done towards retrieving the honour of this kingdom, while I myself, if there were occasion, might be able to bear a part in the service of my country, before I am rendered unable to do any more than to sit down in a great chair, and bewail her calamities. This, my Lords, may be the case of every lord in this House, who shall have the misfortune to live, and to see the event of our differences with Spain, if things are managed as they have been for some years past.

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Many circumstances, my Lords, concur to render this a fit opportunity of making war upon that insulting power. We have now generals, we have admirals alive, who have seen the face of danger; who have formerly helped to reduce the power of that nation which now dictates the councils of Spain. The Spaniards themselves, my Lords, are in no condition to resist us: in Old Spain a barren year has reduced the inhabitants to the utmost misery; the court itself is obliged to retrench its expences in pensions and salaries. I wish we were so wise as to follow their example in this. In America their subjects would be glad of a change in government, so intolerable is the oppression of their governors, who are generally the hungry, needy countrymen of her Catholic Majesty, who sends them over to fleece the people. For some time, my Lords, after the conquest of New Spain, every Spaniard was qualified to be a governor there; but afterwards the court grew jealous, and would suffer only natives of Old Spain to be appointed governors; at last, only natives of the ancient kingdom were to have that important trust. Since her Catholic Majesty has had so much sway in the management of affairs of state, the governors in America are generally Italians. In short, my Lords, the whole Spanish monarchy is now managed by a faction. Shall we be afraid of a people governed by a faction? Or, my Lords, if we were governed by a faction, would any people in the world be afraid of us? Therefore, my Lords, I hope your lordships will put the main question, and convince Spain and all Europe, how dangerous it is for any nation to insult the honour of this kingdom.

Lord *Hervey* observed that the complaints made against the Convention were apparently groundless: for if it had been a bad measure for the kingdom, the Spaniards would certainly have fulfilled it; but as it was for the advantage of the kingdom, they had repented, and refused to fulfil it.

Lord *Lonsdale*:

My Lords; I should be glad to suggest any thing that might reconcile the different opinions of the noble lords who have spoken in this debate. I own, my Lords, I am for putting the main question, but not as it stands. I see no reason for our declaring the non-payment of 95,000*l.* to be an indignity to the king, and an injustice to the kingdom. I think the motion would do better if it wanted these words, and my reasons are these: by the American treaty betwixt us and Spain, either nation is at liberty to use letters of reprisals or other methods of obtaining satisfaction, if justice is either absolutely denied, or unreasonably delayed by the other. Now, my Lords, as the Convention is unfulfilled on the part of Spain, and as one end of the Convention was to obtain justice to the merchants of this kingdom, it necessarily follows, that that justice is absolutely denied. Therefore we are to look upon ourselves in the same situation we were in before the Convention was concluded, and ought to proceed in the same manner as if it never had existed. If it never had existed, my Lords, we must have recourse to that article: we ought to do so now, and if we do, we act strictly up to the sense of treaties; we deprive Spain of all pretences for calling in her allies to her aid; and we expose her injustice while we are chastising her insolence. If we should go to war upon this, then she is the aggressor, and all Europe will acquit us of any ambitious views upon her trade, or intention to disturb the common tranquillity.

The *Lord Chancellor*:

My Lords; when I hear a resolution of this kind moved for in this House, I not only consider the matter of the resolution proposed, but I take, as far as I am able, under my view, all that is consequent upon, or connected with it. This resolution contains, my Lords, indeed, an undisputed fact; but when I consider that it must be attended with another question, as the noble lord who made the motion insinuated, I consider the consequence of that question. This, my Lords, must produce an address to his Majesty for an immediate declaration of war. An immediate declaration of war, my Lords, at this time, I apprehend would be very impolitic in us. We might put Spain upon her guard by such a measure, and deprive ourselves of many advantages we might have by falling upon her without giving her any such notice. Besides, my Lords, the effects of all our merchants in the Spanish dominions must fall into the hands of that court, if we declare war at this juncture. But, my Lords, I am by no means for putting the war longer off. I agree with the noble lord who made the motion, that the state of the nation is more proper for meditation than discourse: I will go farther, my Lords, and say, that

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it is more proper for meditation and action too, than discourse. I am for entering upon action immediately, and that we may do it more successfully, I think we ought to enter into no measures that may put our enemies upon their guard. I hope therefore your lordships will agree to the putting the previous question.*

The Duke of *Argyle:*

My Lords; I believe it was never before known that every lord of this House owned a matter of fact to be true in a debate, and yet refused to own it upon the question. This, my Lords, looks very mysterious, and I do not love mysteries. When people follow mysteries, they are apt to fall into bigotry. I am, my Lords, for our treading in the plain road of truth, nor can I see the least inconveniency that can ensue, if we should put the main question. Shall it be said, my Lords, that this House was afraid to speak the truth? what power on earth should we be afraid of, while we have a just cause, a gracious Sovereign, and a brave people to support us?

The noble lord who spoke last supposed, that if we did not declare war we might attack Spain unprovided. My Lords, if I were to give a man a blow with a cudgel behind his back, is it to be supposed that this man, if he resented the blow immediately, could take me unprovided, unless he looked upon me, my Lords, as a downright fool? is he not to expect that, after giving him such an affront, I will be as ready with my sword as he can be with his? the case, my Lords, is exactly the same betwixt us and Spain. She has insulted us to the last degree, she has wronged us, she has broken her faith with us, and as she has done that, are we to expect to steal a satisfaction of her by her being unprepared? I wish with all my heart, my Lords, she may be unprepared; but whether she is or not, our agreeing to this resolution can be of no service to her, and our not agreeing to it may be a very great discouragement to every man who wishes well to his Majesty's person and government.

The Earl of *Scarborough:*

My Lords; the part I have all along acted in this affair leaves, I hope, no room to doubt of my impartiality. Your lordships may remember that I was for the Address in the beginning of the session, because I thought it a piece of personal respect due to his Majesty. When the Convention came to be considered, I opposed it, as I shall do every thing that I think contrary to the honour and interest of my Sovereign and my country. My Lords, as this consideration has ever prevailed with me, preferably to any ministerial attachment, so I have never yet been swayed by the motives of any party or opposition to give my voice against the measures of the ministry, when I thought they tended to the good of my country. Therefore, my Lords, I flatter myself that your lordships will look upon what I am now to say as the dictates of an unprejudiced heart, uninfluenced by hopes, and unawed by fears. I have, my Lords, given all the attention I was capable of giving to the present debate; I came into the House undetermined how to vote in this question; but resolved to vote on that side which should appear to me, on the debate, to be most reasonable: and, my Lords, with so equal, so unprejudiced a mind have I heard this debate, that (I do not know if I ought to tell it) since I came into this House, I have changed my sentiments three or four times. Before the noble lord who spoke last rose up, I was quite at a loss on which side to give my voice; but what his lordship said has at last determined me.

The affair we are now upon, my Lords, may be resolved into this alternative, Whether it is most prudent for us to agree to a resolution which must produce an address for a war, or depend on the ministry's taking the proper measures? My Lords, if we agree to the former proposition, we may hurry the ministry too much; and if the nation does not receive that satisfaction she expects, we may give them too good a pretext for excusing themselves, by saying, the affair was taken out of their hands, the measures they had laid down were rendered ineffectual by the interposition of other counsels. My Lords, I am for taking from them all pretexts of this kind, by devolving all upon them. The noble lord who spoke last, and who not only knows as much, but has as good a foresight, as any lord in this House, has declared enough to satisfy me. His lord-

* "The Chancellor, lord Hardwicke, a man of moderation, good sense, and candour, spoke with such vehemence in the House of Lords against the Depredations of the Spaniards, and in favour of compulsory measures, that sir Robert Walpole, who stood behind the throne, exclaimed to those who were near him, 'Bravo, colonel Yorke, Bravo!'" Coxe's Memoirs of Sir Robert Walpole.

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ship said that the present was a time more fit for meditation and action too, than for discourse. What stronger assurances can your lordships desire that the ministry will act a part becoming Britons, that they will amply revenge the wrongs we have already suffered, and provide for the honour and safety of the kingdom? My Lords, let me become surety for their proceedings on this occasion. I know many amongst them to be men of such worth, that they would disdain to amuse the nation, or to impose upon this House by sham preparations or mock assurances. My Lords, if they should act in so scandalous a manner, I should be the first man in this House to move for bringing them to justice; nay, my Lords, I here solemnly promise to your lordships, that if, before your next meeting, every end is not answered which we could gain by agreeing to the motion for this resolution, I myself will, on the first day of the next session, move the House to call them to an account.

But, my Lords, my hopes that we shall act a becoming part on this occasion are not grounded so much on the confidence I have in the ministry, as on my knowledge of his Majesty's tender regard to the rights and properties of his subjects. No consideration, my Lords, after what we have suffered from Spain, can induce his Majesty to act any other than a vigorous and an honourable part; and, my Lords, I think it would be doing an injury to his Majesty's known zeal for the good of the nation, if we should precipitate measures by interposing in what he has, to my knowledge, already resolved upon. Therefore let me desire your lordships to drop the main question, and put the previous one.

The previous question being put, it was carried against putting the main question, 63 against 44.

The King's Speech at the Close of the Session.] June 14. His Majesty put an end to the Session with the following speech to both Houses:

"My Lords and Gentlemen:

"The dispatch you have given to the public business that has been under your consideration, makes it proper to put an end to this session of parliament, and to give you that recess, which the season of the year requires.

"You have so fully declared your sentiments, as well with regard to the past conduct of Spain, as to the measures that might become necessary to be pursued, in consequence of any part, which that court might afterwards take, and enable me to act, in all events, as the honour and interest of my crown and kingdom shall require, that no inconveniences can arise from the immediate want of your further assistance, during the recess of parliament; and I shall so entirely rely upon the assurances you have given me with so much zeal and unanimity, and upon your effectually supporting me in following the concurrent advice of both houses of parliament, that I will not be wanting in my endeavours, to vindicate and maintain our undoubted right, and to answer the just expectations of my people.

"Gentlemen of the House of Commons;

"I return you my thanks for the necessary provisions you have made for the service of the current year, in so ample a manner. The extraordinary supply, which you have granted me, towards augmenting my forces by sea and land, is such a proof of your affection and confidence in me, and of your constant attention to the service of your country, that I cannot enough commend this seasonable care of the welfare and safety of the kingdom.

"My Lords and Gentlemen;

"I am persuaded it is unnecessary for me to recommend to your serious consideration, the fatal consequences that may threaten a nation divided within itself, inflamed, and misled by all the wicked arts and insinuations, that malice and falshood can suggest. It is too obvious, what advantages our common enemies wait to take from the heats and animosities, that, under groundless pretences, are industriously fomented, and spread throughout the kingdom. Let all, who profess themselves zealous assertors of the rights and privileges, laws and liberties of their country, and of the protestant religion under the present establishment, unite in the defence of these inestimable blessings. Let the honour, prosperity, and safety of the kingdom become one common cause, and reconcile all civil discords and divisions; that, by your unanimity, you may disappoint the only hopes and vain expectations of our enemies."

The parliament was then prorogued to the 9th of August. After which it was further prorogued until the 15th of November, on which day both Houses met.

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